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Microfilm Publication M892

RECORDS OF THE UNITED STATES

NUERNBERG WAR CRIMES TRIALS

UNITED STATES OF AMERICA v. CARL KRAUCH ET AL. (CASE VI)

AUGUST 14, 1947-JULY 30, 1948

Roll 13

Transcript Volumes (English Version)

Volumes 35-37, p. 12,371-13,489

Apr. 26-May 4, 1948



THE NATIONAL ARCHIVES
NATIONAL ARCHIVES AND RECORDS SERVICE
GENERAL SERVICES ADMINISTRATION

WASHINGTON: 1976

INTRODUCTION

On the 113 rolls of this microfilm publication are reproduced the records of Case VI, *United States of America v. Carl Krauch et al.* (I. G. Farben Case), 1 of the 12 trials of war criminals conducted by the U.S. Government from 1946 to 1949 at Nuernberg subsequent to the International Military Tribunal (IMT) held in the same city. These records consist of German- and English-language versions of official transcripts of court proceedings, prosecution and defense briefs and statements, and defendants' final pleas as well as prosecution and defense exhibits and document books in one language or the other. Also included are minute books, the official court file, order and judgment books, clemency petitions, and finding aids to the documents.

The transcripts of this trial, assembled in 2 sets of 43 bound volumes (1 set in German and 1 in English), are the recorded daily trial proceedings. Prosecution statements and briefs are also in both languages but unbound, as are the final pleas of the defendants delivered by counsel or defendants and submitted by the attorneys to the court. Unbound prosecution exhibits, numbered 1-2270 and 2300-2354, are essentially those documents from various Nuernberg record series, particularly the NI (Nuernberg Industrialist) Series, and other sources offered in evidence by the prosecution in this case. Defense exhibits, also unbound, are predominantly affidavits by various persons. They are arranged by name of defendant and thereunder numerically, along with two groups of exhibits submitted in the general interest of all defendants. Both prosecution and defense document books consist of full or partial translations of exhibits into English. Loosely bound in folders, they provide an indication of the order in which the exhibits were presented before the tribunal.

Minute books, in two bound volumes, summarize the transcripts. The official court file, in nine bound volumes, includes the progress docket, the indictment, and amended indictment and the service thereof; applications for and appointments of defense counsel and defense witnesses and prosecution comments thereto; defendants' application for documents; motions and reports; uniform rules of procedures; and appendixes. The order and judgment books, in two bound volumes, represent the signed orders, judgments, and opinions of the tribunal as well as sentences and commitment papers. Defendants' clemency petitions, in three bound volumes, were directed to the military governor, the Judge Advocate General, and the U.S. District Court for the District of Columbia. The finding aids summarize transcripts, exhibits, and the official court file.

Case VI was heard by U.S. Military Tribunal VI from August 14, 1947, to July 30, 1948. Along with records of other Nuernberg

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and Far East war crimes trials, the records of this case are part of the National Archives Collection of World War II War Crimes Records, Record Group 238.

The I. G. Farben Case was 1 of 12 separate proceedings held before several U.S. Military Tribunals at Nuernberg in the U.S. Zone of Occupation in Germany against officials or citizens of the Third Reich, as follows:

<u>Case No.</u>	<u>United States v.</u>	<u>Popular Name</u>	<u>No. of Defendants</u>
1	<i>Karl Brandt et al.</i>	Medical Case	23
2	<i>Erhard Milch</i>	Milch Case (Luftwaffe)	1
3	<i>Josef Altstoetter et al.</i>	Justice Case	16
4	<i>Oswald Pohl et al.</i>	Pohl Case (SS)	18
5	<i>Friedrich Flick et al.</i>	Flick Case (Industrialist)	6
6	<i>Carl Krauch et al.</i>	I. G. Farben Case (Industrialist)	24
7	<i>Wilhelm List et al.</i>	Hostage Case	12
8	<i>Ulrich Greifelt et al.</i>	RuSHA Case (SS)	14
9	<i>Otto Ohlendorf et al.</i>	Einsatzgruppen Case (SS)	24
10	<i>Alfried Krupp et al.</i>	Krupp Case (Industrialist)	12
11	<i>Ernst von Weizsaecker et al.</i>	Ministries Case	21
12	<i>Wilhelm von Leeb et al.</i>	High Command Case	14

Authority for the proceedings of the IMT against the major Nazi war criminals derived from the Declaration on German Atrocities (Moscow Declaration) released November 1, 1943; Executive Order 9547 of May 2, 1945; the London Agreement of August 8, 1945; the Berlin Protocol of October 6, 1945; and the IMT Charter.

Authority for the 12 subsequent cases stemmed mainly from Control Council Law 10 of December 20, 1945, and was reinforced by Executive Order 9679 of January 16, 1946; U.S. Military Government Ordinances 7 and 11 of October 18, 1946, and February 17, 1947, respectively; and U.S. Forces, European Theater General Order 301 of October 24, 1946. Procedures applied by U.S. Military Tribunals in the subsequent proceedings were patterned after those of the IMT and further developed in the 12 cases, which required over 1,200 days of court sessions and generated more than 330,000 transcript pages.

Formation of the I. G. Farben Combine was a stage in the evolution of the German chemical industry, which for many years led the world in the development, production, and marketing of organic dyestuffs, pharmaceuticals, and synthetic chemicals. To control the excesses of competition, six of the largest chemical firms, including the Badische Anilin & Soda Fabrik, combined to form the Interessengemeinschaft (Combine of Interests, or Trust) of the German Dyestuffs Industry in 1904 and agreed to pool technological and financial resources and markets. The two remaining chemical firms of note entered the combine in 1916. In 1925 the Badische Anilin & Soda Fabrik, largest of the firms and already the majority shareholder in two of the other seven companies, led in reorganizing the industry to meet the changed circumstances of competition in the post-World War markets by changing its name to the I. G. Farbenindustrie Aktiengesellschaft, moving its home office from Ludwigshafen to Frankfurt, and merging with the remaining five firms.

Farben maintained its influence over both the domestic and foreign markets for chemical products. In the first instance the German explosives industry, dependent on Farben for synthetically produced nitrates, soon became subsidiaries of Farben. Of particular interest to the prosecution in this case were the various agreements Farben made with American companies for the exchange of information and patents and the licensing of chemical discoveries for foreign production. Among the trading companies organized to facilitate these agreements was the General Anilin and Film Corp., which specialized in photographic processes. The prosecution charged that Farben used these connections to retard the "Arsenal of Democracy" by passing on information received to the German Government and providing nothing in return, contrary to the spirit and letter of the agreements.

Farben was governed by an Aufsichtsrat (Supervisory Board of Directors) and a Vorstand (Managing Board of Directors). The Aufsichtsrat, responsible for the general direction of the firm, was chaired by defendant Krauch from 1940. The Vorstand actually controlled the day-to-day business and operations of Farben. Defendant Schmitz became chairman of the Vorstand in 1935, and 18 of the other 22 original defendants were members of the Vorstand and its component committees.

Transcripts of the I. G. Farben Case include the indictment of the following 24 persons:

Otto Ambros: Member of the Vorstand of Farben; Chief of Chemical Warfare Committee of the Ministry of Armaments and War Production; production chief for Buna and poison gas; manager of Auschwitz, Schkopau, Ludwigshafen, Oppau, Gendorf, Dyhernfurth, and Falkenhagen plants; and Wehrwirtschaftsfuehrer.

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Max Brueggemann: Member and Secretary of the Vorstand of Farben; member of the legal committee; Deputy Plant Leader of the Leverkusen Plant; Deputy Chief of the Sales Combine for Pharmaceuticals; and director of the legal, patent, and personnel departments of the Works Combine, Lower Rhine.

Ernst Buergin: Member of the Vorstand of Farben; Chief of Works Combine, Central Germany; Plant Leader at the Bitterfeld and Wolfen-Farben plants; and production chief for light metals, dyestuffs, organic intermediates, plastics, and nitrogen at these plants.

Heinrich Buetefisch: Member of the Vorstand of Farben; manager of Leuna plants; production chief for gasoline, methanol, and chlorine electrolysis production at Auschwitz and Moosbierbaum; Wehrwirtschaftsfuehrer; member of the Himmler Freundeskreis (circle of friends of Himmler); and SS Obersturmbannfuehrer (Lieutenant Colonel).

Walter Duerrfeld: Director and construction manager of the Auschwitz plant of Farben, director and construction manager of the Monowitz Concentration Camp, and Chief Engineer at the Leuna plant.

Fritz Gajewski: Member of the Central Committee of the Vorstand of Farben, Chief of Sparte III (Division III) in charge of production of photographic materials and artificial fibers, manager of "Agfa" plants, and Wehrwirtschaftsfuehrer.

Heinrich Gattineau: Chief of the Political-Economic Policy Department, "WIPO," of Farben's Berlin N.W. 7 office; member of Southeast Europe Committee; and director of A.G. Dynamit Nobel, Pressburg, Czechoslovakia.

Paul Haeffliger: Member of the Vorstand of Farben; member of the Commercial Committee; and Chief, Metals Departments, Sales Combine for Chemicals.

Erich von der Heyde: Member of the Political-Economic Policy Department of Farben's Berlin N.W. 7 office, Deputy to the Chief of Intelligence Agents, SS Hauptsturmfuehrer, and member of the WI-RUE-AMT (Military Economics and Armaments Office) of the Oberkommando der Wehrmacht (OKW) (High Command of the Armed Forces).

Heinrich Hoerlein: Member of the Central Committee of the Vorstand of Farben; chief of chemical research and development of vaccines, sera, pharmaceuticals, and poison gas; and manager of the Elberfeld Plant.

Max Ilgner: Member of the Vorstand of Farben; Chief of Farben's Berlin N.W. 7 office directing intelligence, espionage, and propaganda activities; member of the Commercial Committee; and Wehrwirtschaftsfuehrer.

Friedrich Jaehne: Member of the Vorstand of Farben; chief engineer in charge of construction and physical plant development; Chairman of the Engineering Committee; and Deputy Chief, Works Combine, Main Valley.

August von Knieriem: Member of the Central Committee of the Vorstand of Farben; Chief Counsel of Farben; and Chairman, Legal and Patent Committees.

Carl Krauch: Chairman of the Aufsichtsrat of Farben and Generalbevollmaechtigter fuer Sonderfragen der Chemischen Erzeugung (General Plenipotentiary for Special Questions of Chemical Production) on Goering's staff in the Office of the 4-Year Plan.

Hans Kuehne: Member of the Vorstand of Farben; Chief of the Works Combine, Lower Rhine; Plant Leader at Leverkusen, Elberfeld, Uerdingen, and Dormagen plants; production chief for inorganics, organic intermediates, dyestuffs, and pharmaceuticals at these plants; and Chief of the Inorganics Committee.

Hans Kugler: Member of the Commercial Committee of Farben; Chief of the Sales Department Dyestuffs for Hungary, Rumania, Yugoslavia, Greece, Bulgaria, Turkey, Czechoslovakia, and Austria; and Public Commissar for the Falkenau and Aussig plants in Czechoslovakia.

Carl Lautenschlaeger: Member of the Vorstand of Farben; Chief of Works Combine, Main Valley; Plant Leader at the Hoechst, Griesheim, Mainkur, Gersthofen, Offenbach, Eystrup, Marburg, and Neuhausen plants; and production chief for nitrogen, inorganics, organic intermediates, solvents and plastics, dyestuffs, and pharmaceuticals at these plants.

Wilhelm Mann: Member of the Vorstand of Farben, member of the Commercial Committee, Chief of the Sales Combine for Pharmaceuticals, and member of the SA.

Fritz ter Meer: Member of the Central Committee of the Vorstand of Farben; Chief of the Technical Committee of the Vorstand that planned and directed all of Farben's production; Chief of Sparte II in charge of production of Buna, poison gas, dyestuffs, chemicals, metals, and pharmaceuticals; and Wehrwirtschaftsfuehrer.

Heinrich Oster: Member of the Vorstand of Farben, member of the Commercial Committee, and manager of the Nitrogen Syndicate.

Hermann Schmitz: Chairman of the Vorstand of Farben, member of the Reichstag, and Director of the Bank of International Settlements.

Christian Schneider: Member of the Central Committee of the Vorstand of Farben; Chief of Sparte I in charge of production of nitrogen, gasoline, diesel and lubricating oils, methanol, and organic chemicals; Chief of Central Personnel Department, directing the treatment of labor at Farben plants; Wehrwirtschaftsfuehrer; Hauptabwehrbeauftragter (Chief of Intelligence Agents); Hauptbetriebsfuehrer (Chief of Plant Leaders); and supporting member of the Schutzstaffeln (SS) of the NSDAP.

Georg von Schnitzler: Member of the Central Committee of the Vorstand of Farben, Chief of the Commercial Committee of the Vorstand that planned and directed Farben's domestic and foreign sales and commercial activities, Wehrwirtschaftsfuehrer (Military Economy Leader), and Hauptsturmfuehrer (Captain) in the Sturmabteilungen (SA) of the Nazi Party (NSDAP).

Carl Wurster: Member of the Vorstand of Farben; Chief of the Works Combine, Upper Rhine; Plant Leader at Ludwigs-hafen and Oppau plants; production chief for inorganic chemicals; and Wehrwirtschaftsfuehrer.

The prosecution charged these 24 individual staff members of the firm with various crimes, including the planning of aggressive war through an alliance with the Nazi Party and synchronization of Farben's activities with the military planning of the German High Command by participation in the preparation of the 4-Year Plan, directing German economic mobilization for war, and aiding in equipping the Nazi military machines.¹ The defendants also were charged with carrying out espionage and intelligence activities in foreign countries and profiting from these activities. They participated in plunder and spoliation of Austria, Czechoslovakia, Poland, Norway, France, and the Soviet Union as part of a systematic economic exploitation of these countries. The prosecution also charged mass murder and the enslavement of many thousands of persons particularly in Farben plants at the Auschwitz and Monowitz concentration camps and the use of poison gas manufactured by the firm in the extermination

¹The trial of defendant Brueggemann was discontinued early during the proceedings because he was unable to stand trial on account of ill health.

of millions of men, women, and children. Medical experiments were conducted by Farben on enslaved persons without their consent to test the effects of deadly gases, vaccines, and related products. The defendants were charged, furthermore, with a common plan and conspiracy to commit crimes against the peace, war crimes, and crimes against humanity. Three defendants were accused of membership in a criminal organization, the SS. All of these charges were set forth in an indictment consisting of five counts.

The defense objected to the charges by claiming that regulations were so stringent and far reaching in Nazi Germany that private individuals had to cooperate or face punishment, including death. The defense claimed further that many of the individual documents produced by the prosecution were originally intended as "window dressing" or "howling with the wolves" in order to avoid such punishment.

The tribunal agreed with the defense in its judgment that none of the defendants were guilty of Count I, planning, preparation, initiation, and waging wars of aggression; or Count V, common plans and conspiracy to commit crimes against the peace and humanity and war crimes.

The tribunal also dismissed particulars of Count II concerning plunder and exploitation against Austria and Czechoslovakia. Eight defendants (Schmitz, von Schnitzler, ter Meer, Buergin, Haeffliger, Ilgner, Oster, and Kugler) were found guilty on the remainder of Count II, while 15 were acquitted. On Count III (slavery and mass murder), Ambros, Bueteffisch, Duerrfeld, Krauch, and ter Meer were judged guilty. Schneider, Bueteffisch, and von der Heyde also were charged with Count IV, membership in a criminal organization, but were acquitted.

The tribunal acquitted Gajewski, Gattineau, von der Heyde, Hoerlein, von Knieriem, Kuehne, Lautenschlaeger, Mann, Schneider, and Wurster. The remaining 13 defendants were given prison terms as follows:

<u>Name</u>	<u>Length of Prison Term (years)</u>
Ambros	8
Buergin	2
Bueteffisch	6
Duerrfeld	8
Haeffliger	2
Ilgner	3
Jaehne	1 1/2
Krauch	6
Kugler	1 1/2
Oster	2
Schmitz	4
von Schnitzler	5
ter Meer	7

All defendants were credited with time already spent in custody.

In addition to the indictments, judgments, and sentences, the transcripts also contain the arraignment and plea of each defendant (all pleaded not guilty) and opening statements of both defense and prosecution.

The English-language transcript volumes are arranged numerically, 1-43, and the pagination is continuous, 1-15834 (page 4710 is followed by pages 4710(1)-4710(285)). The German-language transcript volumes are numbered 1a-43a and paginated 1-16224 (14a and 15a are in one volume). The letters at the top of each page indicate morning, afternoon, or evening sessions. The letter "C" designates commission hearings (to save court time and to avoid assembling hundreds of witnesses at Nuernberg, in most of the cases one or more commissions took testimony and received documentary evidence for consideration by the tribunals). Two commission hearings are included in the transcripts: that for February 7, 1948, is on pages 6957-6979 of volume 20 in the English-language transcript, while that for May 7, 1948, is on pages 14775a-14776 of volume 40a in the German-language transcript. In addition, the prosecution made one motion of its own and, with the defense, six joint motions to correct the English-language transcripts. Lists of the types of errors, their location, and the prescribed corrections are in several volumes of the transcripts as follows:

- First Motion of the Prosecution, volume 1
- First Joint Motion, volume 3
- Second Joint Motion, volume 14
- Third Joint Motion, volume 24
- Fourth Joint Motion, volume 29
- Fifth Joint Motion, volume 34
- Sixth Joint Motion, volume 40

The prosecution offered 2,325 prosecution exhibits numbered 1-2270 and 2300-2354. Missing numbers were not assigned due to the difficulties of introducing exhibits before the commission and the tribunal simultaneously. Exhibits 1835-1838 were loaned to an agency of the Department of Justice for use in a separate matter, and apparently No. 1835 was never returned. Exhibits drew on a variety of sources, such as reports and directives as well as affidavits and interrogations of various individuals. Maps and photographs depicting events and places mentioned in the exhibits are among the prosecution resources, as are publications, correspondence, and many other types of records.

The first item in the arrangement of prosecution exhibits is usually a certificate giving the document number, a short description of the exhibits, and a statement on the location of the original document or copy of the exhibit. The certificate is followed by the actual prosecution exhibit (most are photostats,

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but a few are mimeographed articles with an occasional carbon of the original). The few original documents are often affidavits of witnesses or defendants, but also ledgers and correspondence, such as:

<u>Exhibit No.</u>	<u>Doc. No.</u>	<u>Exhibit No.</u>	<u>Doc. No.</u>
322	NI 5140	1558	NI 11411
918	NI 6647	1691	NI 12511
1294	NI 14434	1833	NI 12789
1422	NI 11086	1886	NI 14228
1480	NI 11092	2313	NI 13566
1811	NI 11144		

In rare cases an exhibit is followed by a translation; in others there is no certificate. Several of the exhibits are of poor legibility and a few pages are illegible.

Other than affidavits, the defense exhibits consist of newspaper clippings, reports, personnel records, Reichgesetzblatt excerpts, photographs, and other items. The 4,257 exhibits for the 23 defendants are arranged by name of defendant and thereunder by exhibit number. Individual exhibits are preceded by a certificate wherever available. Two sets of exhibits for all the defendants are included.

Translations in each of the prosecution document books are preceded by an index listing document numbers, biased descriptions, and page numbers of each translation. These indexes often indicate the order in which the prosecution exhibits were presented in court. Defense document books are similarly arranged. Each book is preceded by an index giving document number, description, and page number for every exhibit. Corresponding exhibit numbers generally are not provided. There are several unindexed supplements to numbered document books. Defense statements, briefs, pleas, and prosecution briefs are arranged alphabetically by defendant's surname. Pagination is consecutive, yet there are many pages where an "a" or "b" is added to the numeral.

At the beginning of roll 1 key documents are filmed from, which Tribunal VI derived its jurisdiction: the Moscow Declaration, U.S. Executive Orders 9547 and 9679, the London Agreement, the Berlin Protocol, the IMT Charter, Control Council Law 10, U.S. Military Government Ordinances 7 and 11, and U.S. Forces, European Theater General Order 301. Following these documents of authorization is a list of the names and functions of members of the tribunal and counsels. These are followed by the transcript covers giving such information as name and number of case, volume numbers, language, page numbers, and inclusive dates. They are followed by the minute book, consisting of summaries of the daily proceedings, thus providing an additional finding aid for the transcripts. Exhibits are listed in an index that notes the

type, number, and name of exhibit; corresponding document book, number, and page; a short description of the exhibit; and the date when it was offered in court. The official court file is summarized by the progress docket, which is preceded by a list of witnesses.

Not filmed were records duplicated elsewhere in this microfilm publication, such as prosecution and defense document books in the German language that are largely duplications of the English-language document books.

The records of the I. G. Farben Case are closely related to other microfilmed records in Record Group 238, specifically prosecution exhibits submitted to the IMT, T988; NI (Nuernberg Industrialist) Series, T301; NM (Nuernberg Miscellaneous) Series, M-936; NOKW (Nuernberg Armed Forces High Command) Series, T1119; NG (Nuernberg Government) Series, T1139; NP (Nuernberg Propaganda) Series, M942; WA (undetermined) Series, M946; and records of the Brandt case, M887; the Milch Case, M888; the Altstoetter case, M889; the Pohl Case, M890; the Flick Case, M891; the List case, M893; the Greifelt case, M894; and the Ohlendorf case, M895. In addition, the record of the IMT at Nuernberg has been published in the 42-volume *Trial of the Major War Criminals Before the International Military Tribunal* (Nuernberg, 1947). Excerpts from the subsequent proceedings have been published in 15 volumes as *Trials of War Criminals Before the Nuernberg Military Tribunal Under Control Council Law No. 10* (Washington). The Audiovisual Archives Division of the National Archives and Records Service has custody of motion pictures and photographs of all 13 trials and sound recordings of the IMT proceedings.

Martin K. Williams arranged the records and, in collaboration with John Mendelsohn, wrote this introduction.

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Roll 13

Target 1

Volume 35, p. 12,371-12,777

Apr. 26-28, 1948

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

OFFICIAL RECORD

UNITED STATES MILITARY TRIBUNALS NÜRNBERG

CASE No. 6 TRIBUNAL VI
U.S. vs CARL KRAUCH et al
VOLUME 35

TRANSCRIPTS
(English)

26-28 April 1948 pp. 12371-12777

Official Transcript of the American Military Tribunal
in the matter of the United States of America against
Carl Krauch, et al, defendants, sitting at Nuerberg,
Germany, on 26 April 1948, 0900, Justice Shake presiding.

THE MARSHAL: The Honorable, the Judges of Military Tribunal VI.

Military Tribunal VI is now in session. God save the United States
of America and this Honorable Tribunal. There will be order in the court.

THE PRESIDENT: Have you a report, Mr. Marshal?

THE MARSHAL: May it please your Honors, all the defendants are
present except the defendant Haefliger, absent due to illness, and
defendant Schneider, excused.

THE PRESIDENT: The Tribunal will first dispose of the matters
pertaining to the exhibits of the defendant Gattineau, tendered by his
counsel, Dr. Aschenauer, and found in Gattineau Books VI-a and VI-b. With
respect to the documents in Book VI-a, the Tribunal sustains the objection
of the Prosecution to the introduction into evidence of Document 300
marked Exhibit 133; Document 301, marked Exhibit 134; and Document 302,
marked Exhibit 135.

The Tribunal overrules the objection of the Prosecution with
respect to Gattineau 303, marked Exhibit 136 and that document is admitted
in evidence.

The Tribunal also sustains the objection of the Prosecution to
the documents marked as Exhibits 137 to 145, both inclusive, and those
documents will not be admitted in evidence.

The Tribunal overrules the objection of the Prosecution to the
submission of the Document 313, marked Exhibit 146 and that document is
admitted in evidence; and, finally, with respect to Book VI-a, the Tribunal
sustains the objection of the Prosecution to Document 314, marked as
Exhibit 147.

That is the ruling of the Tribunal with respect to the documents
in Book VI and in the interest of clarity I may say that the Tribunal has
in effect sustained the objection of the Prosecution to all of the
documents in that book with the exception of Document 303, Exhibit 136

marked Exhibit 146. Those two documents are in evidence.

Now with respect to the documents contained in Gattineau Book VI-b, the Tribunal sustains separately and severally the objection of the Prosecution to the offer in evidence of all of the documents contained in that book. To be more specific, the Tribunal sustains the objection to the documents marked as exhibits from 148 to 184, both inclusive. Those documents will not be introduced in evidence.

Just a moment — I am told that I omitted reference to Document 314 marked as Exhibit 147, found in Book VI-a. If I did do that it was an oversight. That document will not be admitted in evidence, the objection of the Prosecution being sustained.

That, gentlemen, disposes of the matter with respect to the introduction in evidence of the books contained in defendant Gattineau's Books VI-a and VI-b.

In the same connection the "prosecution" is ready to say, and now rules, that the motion of the defendant Gattineau dated 17 of December 1947, the motion of the defendant Gattineau dated 6 April 1948, and likewise the motion of the defendant Gattineau dated 7 January 1948 are each and all now denied by the "prosecution" — by the Tribunal.

That, we think, dispose of the pending motions devoted to this phase of the case that was urged by Dr. Aschenauer in behalf of his client. If there is any doubt in the minds of counsel as to the effect of these rulings or what is embraced in them, don't hesitate to ask us about it because we wish our position to be clear so that there be no future confusion on this subject.

Counsel may continue with the case of the defense.

Oh, just a moment.

MR. SPRECHER: Mr. President, I promised you a brief report with respect to a plan of compliance with your ruling of last Thursday concerning furnishing copies of Prosecution documents to the Defense counsel.

THE PRESIDENT: Very well; we will hear you at this time.

MR. SPRECHER: Mr. President, unless you direct me to the contrary, I shall assume that this plan is satisfactory. However, we will be glad to make whatever adjustments are necessary to make things more convenient for the Defense.

THE PRESIDENT: Well, of course the Tribunal does not know what your plan embraces but counsel for the Defense are pretty well represented here this morning and I take it they will follow you and if there is any objection or uncertainty about the matter they will probably assert themselves. Go ahead.

MR. SPRECHER: Under the direction of Mr. John Boll, a group of analysts have gone through the first 5,000 documents which are marked in the so-called NI series which contains, so far as I know, all the documents which might originate from Farben files. With respect to the first 5,000 they have segregated out in little booklets for each thousand series all the SEA's; that is, the staff evidence analysis concerning those documents originating in Farben files. They have then cut off the bottom of the page which has the confidential analysis of the Prosecution on it and the rest of the documents are being placed in Room 143 in the hands of Mr. Fred Niebergall, the chief of the Document Control Branch, Evidence Division. Counsel may see Mr. Niebergall in order to work out steps from there on. The Farben team has nothing to say beyond that point.

THE PRESIDENT: Perhaps, you should supplement that to say what your plans are with respect to the other documents.

MR. SPRECHER: Yes, I expect that within this week we will work up into the 10,000 series — I don't know how far but, in any event, we will keep delivering little booklets like this each time we cover a thousand documents and that will be several thousands a day.

THE PRESIDENT: Where will these books be deposited, may I ask counsel?

MR. SPRECHER: In Room 143 with Mr. Niebergall who will then in

some way make both them and any documents which counsel wants available to the Defense.

THE PRESIDENT: Now, is there any thought on the part of counsel for the Defense that insofar as this goes -- I mean with respect to the first 5,000 so-called Farben documents in the Document Center -- this is not a good faith compliance on the part of Prosecution with the order heretofore made?

Then you will understand that those documents are available to you and you may have such use of them as you see fit and, if we take it from what the Prosecution has said, the other documents will very speedily be made available on the same terms.

Thank you, Mr. Prosecutor.

DR. DIX: Dr. Dix, for the entire Defense. At first, I am very grateful to Mr. Sprecher and the entire Prosecution for the speedy compliance with the order by the Tribunal.

I must state frankly that I am not intelligent enough to oversee at that point whether the Defense has more desires with respect to the program just outlined by the Prosecution. Prima facie, I personally, don't see any objections but perhaps I may reserve the right to say something else as soon as I see Mr. Sprecher's statement in the transcript. I shall at first discuss this matter with my colleagues.

THE PRESIDENT: We take it, then, Dr. Dix, that as far as you are presently advised and without waiving your rights or the rights of your associates that you have no objection to this progress, that you do reserve the right to resurvey the situation and present whatever you think proper later. The Tribunal trusts that you will not overindulge yourself in trying to find some objection to this practice because we had hoped that this would solve the problem but if you have anything further to say about it we will hear you later.

DR. DIX: You understood me correctly, your Honor, and I am really a lazy person at heart; therefore, the Tribunal may rest-assured that I shall make no exaggerated requests.

THE PRESIDENT: Very well, Dr. Dix. Now, if there are no further announcements, we will permit Dr. Helte to continue with respect to his presentation in behalf of the defendant Hoerlein.

MR. ROSPATT (Counsel for Dr. Ilgner): I ask that the defendant Dr. Ilgner be excused tomorrow morning so that he may prepare his defense.

THE PRESIDENT: Very well, that request is granted. You may continue then, Dr. Helte.

DR. HELTE: (Counsel for defendant Hoerlein): Your Honors, in our last session I overlooked that on page 10 of the index of Book VI there are a number of these documents which could not be submitted and identified. Therefore, I am now stating for the record that the document, Hoerlein 139, the affidavit of Professor Wesse, will receive exhibit number 133. Document Hoerlein No. 145, affidavit of Riets, will become Exhibit 134. Document Hoerlein 141, affidavit of Dr. Baumgarten, will become Exhibit 135. Document Hoerlein 146, the affidavit of Director Zahn, will become Exhibit 137.

Your Honors, after the 5th of April I received a number of similar documents, altogether they are five. When I submitted these documents to the Defense Center with the request to have them translated and mimeographed, I was told that this would only be possible after the Tribunal had approved that procedure. For that reason I made an application to the Tribunal on the 16th of April submitting the German documents to them and asking them to approve them, the mimeographing and translation.

MR. SPECHER: Mr. President, I think we will be able to save some time and as well some processing here. If Dr. Helte states that the five other named gentlemen have given the same affidavit in the same words as the other affidavits, I am certain that the Prosecution will stipulate to that effect and with that basis we will be able to follow along in this trial, it seems to me, quite as well if we have five more additional affidavits to the same general effect as those to which you have just referred. If you are satisfied with that stipulation and will merely read

into the record the names of the affiants or the persons to whom your affidavits apply, we will understand from what the Prosecution has said that it concedes that those persons have made substantially the same statements as the other and this will dispense with any further necessity of taking time.

DR. NELTE: Your Honor, I only give the names, of the affiants for the record. These are: Dr. Richard Paulmann, Director Josef Schmitz, Dr. Curt Duisburg, Dr. Josef Grobel and George Thessmar.

This brings me to the end of the submission of documents in the case of Professor Hoerlein. To round it up, however, I must make a statement with respect to Dr. Karl Koenig's affidavit; this is Hoerlein Document NI-79, Exhibit 71. This document was received into evidence by the Tribunal. However, the Tribunal objected to certain parts of this affidavit. Your Honors at that time suggested I should by immediate contract obtain a substitute affidavit which would conform to the rules of a proper affidavit. I did so and Dr. Koenig has promised to give me an affidavit which will comply with the Tribunal's request. I am daily awaiting the receipt of this affidavit and I only ask you to permit me to offer this affidavit which is, as far as its contents are concerned, in full accordance with Hoerlein Document NI-79, Exhibit 71 as soon as it arrives. As agreed upon, I shall give it to the Tribunal first.

THE PRESIDENT: Very well; we will keep that matter open and if, before the close of the case, you obtain the proper evidence of the document, we will admit it in evidence, if you call it to our attention, Dr. Nelte.

DR. NELTE: This still does not conclude the case on behalf of Hoerlein insofar as my motion with respect to Document NI-13590, Prosecution exhibit 1866, is still pending before you subject to your decision. This is the known report of Dr. Neumann and particularly page 6 of that document. I should be very grateful to the Tribunal if it would make a ruling with respect to this matter before Professor Hoerlein has to be given leave of absence. I am only making this request because, in case

my motion will be denied by the Tribunal, I would have to reserve the right to offer further evidence for the fact that page 6 of the Neumann report under no circumstances was attached to the actual Neumann report and never was sent off together with the original report.

THE PRESIDENT: Counsel, the Tribunal is well aware of the fact that that motion is pending. If it had been the only pending motion we probably would have passed upon it but we are laboring under a pretty heavy load of pending motions and, unfortunately, the time we have had available to consider those subjects has been somewhat limited. I may say to you that we are going to be in session pretty late yet tonight; we have a night session. We will undertake to shift that motion to the top of the pending pile and get your decision on it just as quickly as we can but we understand the situation with respect to your client and just as soon as we can get through it we will pass on it.

DR. NELTE: Thank you very much, your Honor. Your Honor, I should now like to ask that the defendant Professor Hoerlein be permitted to take part in the session before the Commission. They are starting at ten o'clock.

THE PRESIDENT: Dr. Nelte, let me anticipate what you say about that by observing that we have a request — or, rather, a notice, from the Commission to the effect that we have a Commissioner's hearing scheduled at ten o'clock this forenoon in which the defendant Hoerlein may be interested; and at eleven-thirty today a hearing in which the defendants Bustafisch and Duerrfeld may have some interest. Without any further order, if the counsel for those defendants will indicate to the Marshal that they wish to have their clients appear at those hearings, they may leave the courtroom and go to the Commissioner's hearing at the appropriate time.

DR. NELTE: In the case of Hoerlein, there is only the submission of the rebuttal documents before the Tribunal. That is to be done this afternoon at one-thirty in accordance with an agreement with Messrs. Minskoff and von Halle and this would conclude completely the case on behalf of

Boerlein.

MR. SPEECHER: I only want to say that I am not advised of this arrangement. It may be perfectly good but I don't want by my acquiescence to indicate agreement because I just don't know about this arrangement.

THE PRESIDENT: The Tribunal is in the same situation. We knew nothing about the arrangement but if anything can be worked out between counsel that does not disturb the program and will expedite the presentation of documents, the Tribunal will be cooperative. We will take it up at the proper time and see what develops.

Now, gentlemen, what is the next part of the program?

Dr. Siemers?

DR. SIEMERS: (Counsel for defendant von Schnitzler): May it please the Tribunal, I should like to start the submission of the documents books on behalf of my client, Dr. von Schnitzler. These are documents books 1 to 5. I may remind the Tribunal that a time chart has been submitted to the Tribunal which provided the submissions of evidence on behalf of my client for this morning. I am not sure, however, whether the Tribunal has the necessary document books available. I think that they have arrived at this moment and I shall wait until you have them in your possession.

THE PRESIDENT: May I ask you, Dr. Siemers, how many books yet do you have to present?

DR. SIEMERS: I have altogether nine document books.

THE PRESIDENT: I am quite certain, without being able to give you the number or the designation of the books that have been delivered, that we do not have all of the English editions of your document books. We would much prefer, as we are advised these books will soon be available, to take up some other phase of the case and set you aside temporarily, Dr. Siemers, until we know and have the assurance that we will not be delayed by the lack of your books. If you could step aside this morning and let some one of your associates take up another matter, we will survey the book situation at the morning recess and then be able, perhaps, to work out something that will be dependable so far as being able to go along is concerned. Is that agreeable with you?

DR. SIEMERS: Your Honor, the matter is as follows. The nine document books were submitted by me all at the same time, about over a month ago. I stated that now I shall only submit Document Books 1 to 5 and not yet the Document Book 6 to 9. Consequently, the mimeographing department probably has only completed the Document Book 1 to 5, for the use of the Tribunal and the Prosecution. It seems to me that these five document books are available now.

I may explain to you why I made that division —

THE PRESIDENT: Just a minute, Doctor. I am quite positive — and I am so advised by my associates — that we do not have your document books 1 to 5 yet.

DR. SIEMERS: The Secretary General tells me just now that the books 1 and 5 are available. The purpose why I shall only submit five books for the moment is that the first two books concern aggressive war, Count 1 of the indictment; the document books 3 to 5 concern the case of Francolor. In order to facilitate the Tribunal's picture, we have anticipated that Dr. Berndt will then hear Dr. Tar Meier with respect to

Francolor. I would be grateful for being allowed to do that today.

JUDGE HERBERT: Pardon me, Dr. Siemers. Perhaps I could save some time by making a brief statement. After the conclusion of the afternoon session on Friday the Tribunal was presented with a schedule which had been prepared by Defense counsel at its meeting on Thursday. The Tribunal had the opportunity to consider that schedule on Friday evening for the first time, and I must say that on account of the unavailability of the documents we feel that those suggestions cannot be adopted in all of their details. The intervening weekend made it impossible for the Tribunal to discuss these matters with counsel.

I think I can correctly state the view of the Tribunal, though, that it is our preference to proceed with the completion of the cases of the defendants from whom we have heard no evidence, namely, the cases of the defendants von der Heyde and Kugler. Following that, we would like to have the completion and the presentation of all of your evidence on behalf of the defendant von Schnitzler. We would then like to have Dr. Berndt produce the balance of the evidence on behalf of the defendant ter Meer. And thereafter, to the extent that it is possible in keeping with the availability of documents and as Judge Shake has indicated, we propose to survey that situation at the ten-thirty recess this morning. We would like to follow in the main the sequence which you have indicated, which Defense Counsel have indicated, in their schedule, if that is possible in keeping with the availability of the documents.

I think that correctly states the situation as of the moment, and it is my personal view that it would facilitate matters if we immediately started with Dr. Hoffmann's presentation.

DR. SIEMERS: Your Honor, personally, it is all the same to me, and I shall be in agreement with every discussion. I don't mind whether I submit my documents today or some other day. Let me only point out this; I should like to prevent any complication arising from the fact that I don't submit the documents today. I said that I was prepared to address

the Tribunal today because Drs. Hoffmann and Berndt asked me to do that. That was, and still is, the reason why I tried to start now. From a technical point of view I might state that the translation and mimeographing branches, since early last week, were informed that my documents books were to be submitted on Monday. That is the reason why I am surprised that you didn't have them at your disposal. I asked that they be submitted until Friday so that Mr. Sprecher has them in his possession at the right time.

THE PRESIDENT: Very well, gentlemen. There is no use consuming too much time about this. Let the Tribunal ascertain now from Dr. Hoffman if he is ready now to proceed with the presentation of the case of the defendant von der Heyde.

DR. HOFFMANN: Yes, Your Honor. I must state at the same time that Dr. Berndt asked me to wait.....

THE PRESIDENT: Well, gentlemen, there is not much to concern ourselves about this order further than to try to keep the procedure in some orderly process and to not lose time. Under the circumstances, the Tribunal will assume the responsibility of setting Dr. Siemers' presentation temporarily aside and will hear Dr. Hoffmann present the case of the defendant von der Heyde, and "sufficient unto the day is the evil thereof." And you may proceed gentlemen.

DR. SIEMERS: Your Honor, one more request. Because of the fact that there is a change now, a certain complication may arise because of the fact that I am also participating in the Krupp trial. I told the people of the Krupp trial that I must be present in the Farben trial today and tomorrow. The Krupp tribunal has made its disposition accordingly, and Wednesday and Thursday I must be in that court. Now, Friday and every day thereafter I shall again be available for this Tribunal, but I think that we will well be able to arrange that according to Mr. Hebert's plan.

THE PRESIDENT: Very well. The Tribunal just feels that way, that it is not good procedure to start receiving documents until we have the documents through the processing, and sometimes we do not get them

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when they are promised. When we have them, we know how to proceed. Under the circumstances, we will try to take care of your conflict of interests as best we can, Dr. Siamars. We understand your responsibility in the other tribunal, and the Tribunal will now permit Dr. Hoffmann to proceed.

MR. SPECHER: Well, Mr. President, the Prosecution just has one thing to lay before Your Honors. Over the week-end we had at least three different representations from three Defense counsel claiming to speak on behalf of the entire Defense. Now, with the staff of at present six lawyers, we have some difficulty in making our disposition, particularly since there are such things as a commission hearing in Switzerland. Now, I would like to have the Tribunal set some kind of a schedule--and we did think we knew of such a schedule--and then have some adherence to it, rather than having Dr. Siemers make all kinds of proposals, which I am sure the document branch and no one else understands because I didn't understand that.

THE PRESIDENT: Well, gentlemen, the time is going on ... that clock is ticking. The Tribunal has twice indicated now that we are ready to hear Dr. Hoffmann. We appreciate your efforts to present your cases at one time, but unfortunately we can only hear one at a time, and that is the order of business. And counsel may now proceed without any further delay.

DR. HOFFMANN: Your Honor, with the permission of the Tribunal--

THE PRESIDENT: Is Dr. Berndt trying to say something there?

DR. BERNDT (Counsel for defendant Ter Meer): I may state therefore that I will start my examination of the defendant Ter Meer after the completion of the Kugler case.

THE PRESIDENT: That is perfectly agreeable to us, Dr. Berndt. That is agreeable.

DR. BERNDT: Furthermore, let me state that before Dr. Ter Meer's examination the Books 3, 4 and 5 will already be submitted by Dr. Siemers.

THE PRESIDENT: Then you cannot start right after Kugler. You had better have a little talk with Judge Hebert in chambers at recess about that feature. We can save the time now. And it is rather hard, gentlemen, to work out the intricate details of this program at this

late stage here in open court. See Judge Hebert at recess, Dr. Berndt.

You may continue Dr. Hoffmann.

DR. HOFFMANN: Your Honor, would you ask that the defendant von der Heyde take the witness stand?

THE PRESIDENT: Dr. von der Heyde may take the witness stand.

(DR. ERICH VON DER HEYDE, a witness took the stand and testified as follows:)

THE PRESIDENT: Will you raise your right hand, say "I", and state your name for the record?

WITNESS: I, Erich von der Heyde.

THE PRESIDENT: And now please repeat after me the oath: ... swear by God, the Almighty and Omniscient that I will speak the pure truth and that I will withhold and add nothing. (The witness repeated the oath.)

You may be seated.

DIRECT EXAMINATION

ERICH VON DER HEYDE

BY DR. HOFFMANN:

Q Mr. von der Heyde, would you please describe to the Tribunal what your professional training was?

A In the years after the First World War I studied agriculture at the Technical University of Munich. After having worked in agriculture practically for a year and a half I finished my diploma examination in 1923 and received the degree of a Diploma Agricultural Expert. In 1924 I made my doctorate at the Technical University of Munich.

Q What was your activities after you finished your studies?

A After the end of my studies I took a position in Munich with the Munich Rail Insurance Company as an agricultural expert and investigator. Since, however, this was not a permanent position, I applied at the same time for a job at many other places; among others, I applied to the Agricultural Department of the I.G. Farbenindustrie.

On the basis of my examination certificate I got a position with Farben in 1926 in their Agricultural Department of Ludwigshafen with Dr. Stroebele.

Q Dr. von der Heyde, had you had any acquaintances connecting you with Farben?

A No.

Q You wrote to Farben in the same way as you wrote to all the other firms?

A Yes.

Q Another question, Mr. von der Heyde. What does Farben have to do with agriculture?

A Farben produced agricultural fertilizer for agricultural purposes. The agricultural Department at Ludwigshafen constituted a special department in that field. It had the task, on the one hand, of advising the farmers in the application of the fertilizers of Farben, and in the same way it had to test the efficacy of the fertilizers produced by Farben. Under the circumstances it had to make suggestions for the production of certain fertilizers for agriculture which had to be produced at Oppau.

Q If I understood you correctly, that was the entire activity which you had in Ludwigshafen with respect to the Agricultural Department?

A Yes.

Q What actually was your personal activity in that field?

A The Agricultural Department of Ludwigshafen consisted of the actual department at Ludwigshafen, and in addition there was the agricultural experimental station where scientific fertilizers experiments were being carried out. This was done on a farm where the nitrogen fertilizers were actually practically tested. There were a number of advisory agencies distributed throughout the Reich which maintained direct contact with agriculture. Personally, I entered the Ludwigshafen Central Department, the Agriculture Department. The Agriculture Department consisted of various experts fields. It was divided into ten experts fields, each one of which was headed by one expert.

These expert fields, for instance, was the execution of fertilizer tests, the drawing up of advertisements for agriculture, and also the press work connected therewith.

Q Would you please tell the Tribunal what expert field you had to deal with in that department?

A After my training I had to deal with press matters. That is to say, on the one hand to observe the agricultural technical press with respect to publications pertaining to nitrogen fertilizers and the exploitation of such publications for the advertising literature of Farben. On the other hand, I had to draw up agricultural technical articles with respect to fertilizers nitrogen.

Q And did you remain in that activity throughout the entire time, or did you gradually enter into a larger field of work?

A My work with respect to the agricultural press in questions of nitrogen fertilizers lasted from 1926 up to 1931 or 1932. In 1931 or 1932, as far as I remember, a colleague of mine withdrew from the firm, having reached his age limit, and I was put in charge of the publication of an agricultural monthly periodical which was distributed by Farben to farmers.

Q What was the name of this monthly periodical?

A The periodical was called "Agriculture and Technology."

DR. HOFFMANN: May it please the Tribunal, I submit to you a copy of this periodical "Agriculture and Technology" for identification, and it will receive the number von der Heyde No. 1.

Q Mr. von der Heyde, using that copy, would you please state whether that is the very paper which you have just discussed?

A Yes, it is.

Q How can you tell?

A Yes, this is the periodical "Agriculture and Technology" which we published.

Q But how do you ascertain that —

THE PRESIDENT: Go ahead and answer the question, and I will make an announcement.

A On the back page of that periodical there is the usual notice with respect to the publication and the editors. It says: "Agriculture and Technology... Dr. von der Heyde .., Ludwigshafen on the Rhine, Friesenheimer Strasse."

THE PRESIDENT: So counsel and defendants may know how to plan their program, I wish to state that I have a note from judge Crawford that the commissioner's hearing in which Dr. Baetefish and Dr. Duerffeld may have some interest will not take place until one-thirty this afternoon.

Go ahead.

BY DR. HOFFMANN:

Q Mr. von der Heyde, would you please once more look at that paper, and would you tell us briefly what articles were published in that paper and what the date of it is?

A The copy in my hand bears the number 10 of the ninth year, October, 1933. The articles deal with the basis of successful economy written by a diploma agricultural expert, Dr. Wiese; "Sugar Beet leaves and their successful use", by Dr. Deichmann, Bonn. Then there is another article entitled "Thinking of Fertilizers in the Fall." Another Article "The Basis of the Proper Feeding of our Agricultural Animals, etc."

Q Mr. von der Heyde, the publication of this paper and everything connected therewith -- was it the work of which you were in charge in the Agriculture Department of Ludwigshafen.

A There was a yearly calendar published with the same publication which was also distributed to farmers at the rate of 61,000 copies. I was also responsible for the editing and publication of that yearly calendar.

Q What was the name of this yearly calendar?

A It was called "Scholle und Kraft" -- "Sod and Strength".

DR. HOFFMANN: Your Honors, for identification it will be Exhibit von der Heyde No. 2. It is a copy of the calendar "Sod and Strength."

Q Dr. von der Heyde, what is the copy in your hands?

A I have the copy of 1937. It was compiled in 1936.

Q Dr. von der Heyde, would you be so good to read the index which will acquaint us with the content of this calendar?

A Among the publications of this calendar edition there is the article entitled "Use of Agricultural Bookkeeping;" an article "Better Harvest from the Leas", by Prof. Roemer; " an article "The Nitrogen Bride", by agricultural expert Schoettel; "The Humus Supply of our Soil, " by Regierungsrat Dr. Fuerst, etc.

THE PRESIDENT: Dr. Hoffmann, do we understand that both of these documents, your Exhibits 1 and 2, are marked for identification only so that they will not need to be processed, translated, and so forth?

DR. HOFFMANN: Yes.

THE PRESIDENT: You are just using them to refresh the recollection of the witness as to the nature and content of the documents?

DR. HOFFMANN: Yes.

THE PRESIDENT: Very well.

DR. HOFFMANN: Your Honor, it would have been too much work to mimeograph 500 pages of earth fertilizers, nitrogen, etc.

THE PRESIDENT: Very well.

BY DR. HOFFMANN:

Q How long did you remain in Ludwigshafen?

A I remained there from 1926 until October or November 1936.

Q And where did you go afterwards?

A I then transferred to Berlin in the Economic-Political department there.

Q And what was the reason for your transfer to Berlin?

A. In 1935 an agreement had been made between my superior Dr. Strohbein and the head of the Economic Political Department, Dr. Gattineau, according to which one expert member of the Agricultural Department be exchanged for some time, that is to say, for a year to year and a half, with an expert in that department there. He was to stay in Berlin. In the course of this agreement, my colleague, Dr. Gachmann, had gone to Berlin and to the Economic Political Department, in 1936. In the fall of 1936 I changed with Dr. Gachmann. Dr. Gachmann returned to Ludwigshafen and I in turn entered the Economic Political Department in Berlin.

Q. What was your sphere of activity in Berlin?

A. My sphere of activity in the Economic Political Department have already been explained and I need not add anything since Dr. Gattineau has dealt with this matter sufficiently.

The Economic Political Department was divided into a number of expert fields, each one of which was headed by one expert. The Department included ten referents, experts, each of whom had one Sales Combine of Farben. That is to say, he had to be at the disposal of one such Sales Combine. I personally was given the Department for Nitrogen and Gasoline in the Economic Political Department. That is how it was called at the time.

Q. Mr. von der Heyde, let me ask you this: Did the work in the field of nitrogen and gasoline have anything to do with your professional knowledge as an agricultural expert?

A. The gasoline field was alien new to me, and it remained thus. The work in that field, in the Economic Political Department, never actually came into effect. That was due to the fact also that in Farben there were no Sales Combines for gasoline. The sale of gasoline products were handled by an independent sales company. The Gasoline A.G. Berlin. The sphere of work, nitrogen, was known to me, and was

rather close to me as a result of my activity at Ludwigshafen. Here again my sphere of work in the WIPO meant something special to me, because Farben did not own a Sales Combine for Nitrogen. The sale of the nitrogen products and nitrogen fertilizer products and other fertilizer products was arranged by the Nitrogen Syndicate, about which Dr. Oster has talked here at great length.

Q. Mr. von der Heyde, would you tell us concisely what exactly your activities were in the field of nitrogen and gasoline; would you state it in summary?

A. As an expert in the WIPO I had to deal with all economic political questions in the field of nitrogen export for the benefit of the Nitrogen Syndicate that is to say, on the one hand in connection with the Nitrogen Syndicate, and on the other dealing with the Reich Ministry of Economics. We had to handle those questions which were important for Trade Agreement quarters, custom questions, etc.

Q. Mr. von der Heyde, you said that you had to work in the Economic Political field. One might perhaps assume that your position meant attache of the Ministry of Economics. Let me ask you the question more specifically. What do you mean when you say you were an economic political expert as Nitrogen expert in the WIPO?

A. It meant the current liaison with the Ministry of Economics, and the Ministry of Food, and that gave us the survey of the pending Trade Agreements, and the intentions which the Government followed with respect to these matters. These plans were of great interest for the Nitrogen Syndicate insofar as the export of nitrogen fertilizer was concerned. Connection with the Nitrogen Syndicate afforded me an opportunity to consider Trade Political questions and the desires of the Syndicate, and transmit them to the responsible Berlin authorities as for instance, the Reich Ministry of Economics. I had to put into effect the execution of such desires with the responsible authorities.

Q. Mr. von der Heyde, were you independent in your work, or were you subject to directives and who finally were your superiors?

A. I was one of the experts in the Economic Political Department who was working with the WIPO in a liaison capacity, and I had to be available to the Nitrogen Syndicate at all times, whenever the Syndicate expressed the desire to discuss economic or political questions with various Ministries. In such cases I approached the experts of the Ministries in the sense of the directives issued to me by the Syndicate under the circumstances. If it was desired, I arranged for conferences between the experts of the Syndicate on the one hand, and the experts in the Ministries or other Reich agencies on the other. It was a liaison auxiliary function, as far as I was concerned.

Q. How about your superiors in NW 7; are they identical with those of the Syndicate which you discussed?

A. No, my direct superior was the head of the economic political department, procurist Dr. Gattineau. His deputy at that time was the Trade Plenipotentiary, Dr. ter Haar. After the beginning of 1939, took over the head of the Economic Political Department. His deputy in that department became my colleague, Erich Mueller.

Q. Now, Mr. von der Heyde, you only discussed the first level of your superiors. Above that level, were there any other superiors?

A. The Agency NW 7 as it was already explained here, was divided into a number of departments of which the WIPO was merely one. The management of the agency was handled by members of the Vorstand, Dr. Ilgner, and his Deputy was Director Dr. Krueger. Both of these gentlemen were above the Departmental head, Dr. Gattineau.

Q. Mr. von der Heyde, could you at that time gain an approximate picture of how NW 7 was organized within the large structure of Farben?

A. The agency NW 7 was on the level of Sales Combines, and dealt

with central auxiliary functions for the Sales Combines with respect to the Berlin Reich Agencies.

Q. Mr. von der Heyde let me go back briefly to your private life. Before 1933 were you in any political organization?

A. No.

Q. After 1933 did you become a member of any political organization, such as the Nazi party?

A. Yes, at the end of 1933, I entered the SS Riding Unit 7 at Mannheim where I resided.

Q. Did you also become a member of the Party in 1933?

A. No.

Q. Why not?

A. It was for the same reason which also prevented me from joining any Party before 1933. I didn't approve of membership in the Party because I did not wish to be bound to any individual Party program, without being able to take into consideration the valid and proper ideas of another Party. It was a horror to me to be forced to attend political meetings, or membership meetings.

Q. But weren't you bound in the same way when you joined the Riding Unit of the SS, or what was the situation there?

A. The Riding Unit, Mannheim, had originally been a Riding Association, which in 1933 was re-formed. It was at first to be affiliated with the SA, and in the second half of 1933, it was actually affiliated with the SS. The Riding Unit 7 was not a rigid organization. That is to say, there was no regular, strict service. The members had an opportunity to train themselves in riding, to practice riding. This is a sport which I particularly enjoyed since my activity was in agriculture.

Q. Mr. von der Heyde, I should like to clarify the following matter in that respect. Later you did join the Party. When was that?

A. I joined the Party at the beginning of 1938. The exact date

of entry was made effective as of the first of May, 1937.

Q. How did that come about?

A. I changed my residence at the time. The Blockleiter of the Ortsgruppe approached me, and asked me about data with respect to my relationship to the Party. Thereupon I told him that I was a member of the Riding Unit 7 of the SS at Mannheim. However, I rejected becoming a member of the Party.

He then said, "You are a funny bird, aren't you? For four years you have been a member of the SS and you are not yet a Party member. I think it is about time, don't you?"

Thereupon I joined the Party.

Q. This brings me to the next question. When this blockleiter of the NSDAP visited you in 1936, on the occasion of the change of your residence, you said to him that you were a member of the Riding Unit of the SS; when you transferred to Berlin in 1936, did you remain a member of the riding Unit of the SS in Mannheim, or did that change as far as you were concerned?

A. The Agricultural Department of Ludwingshafen only temporarily transferred me to Berlin. My activities in Berlin in the same was as in the case of my predecessor, Dr. Gaehtmann, was to last for only 1 to 1½ years. For that reason I remained a member of the Riding Unit of Mannheim, and I was given leave for the period of my absence at Berlin.

Q. Mr. von der Heyde, you already said before that you were an expert in the Nitrogen field and other economic political questions connected therewith under Dr. Gattineay in the Economic Political Department; is that true?

A. Yes.

Q. How did your activities in Berlin develop from there on, from a professional point of view; did your field of work remain as you have just described it?

A. In the agency, Berlin NW 7, I was almost the only agricultural man. For that reason, soon after I was used to my work, I was approached by various departments of the agency, and in particular by Dr. Krueger, in order to deal with agricultural questions within the framework of economic policies. For that reason my field of work changed very soon, and also named differently. I have already said that the work in the gasoline field, which was entirely strange to me, never actually became very effective. On the other hand, however, I became an expert for questions of agriculture. In that capacity, within the framework of the WIPO, as an employee of the WIPO, I had to maintain liaison to the Reich Ministry of Food, and the Reich Agencies for food questions.

Q. Mr. von der Heyde, what was this expert field for agricultural economics? perhaps you would explain that in a few brief words.

A. In the various trade agreement negotiations between Germany and other countries, there was also an exchange of agricultural products provided for, that is to say, the import of wheat, oils, fats, etc. The Berlin NW 8 Agency dealt on the fringe also with the work of the Soya Plantation in the Southeastern European countries. For that reason, it was interested in the trade negotiations between Germany and the Balkan countries with respect to the import of these Soya products. The work with respect to these questions, that is to say, the presentation of questions and requests in that field, to the Berlin Reich Agencies responsible for that sphere, as for instance, the Reich Ministry of Food or the Reich agencies for oils, fats, wheat, etc., the maintenance of the liaison with these agencies, was my task.

Q. Mr. von der Heyde, am I correct in understanding your explanation to mean that a Department of Berlin NW 7 or the nitrogen syndicate, would telephone you or send you a written request that they wanted to know this or that; "would you please find out from the Reich Ministry of Economics what this is all about and then inform us again"?

A. Yes, that is exactly how it was.

Q. That was your activity?

A. Yes, that was it.

Q. Now, Mr. von der Heyde, the Prosecution has mentioned a number of other activities and they designated you as the expert with reference to deferment questions. Did you have anything to do with deferment questions?

A. Yes, since 1939.

Q. And how did that come about?

A. The deferments in the Berlin NW 7 Agency, were handled by a colleague of mine up to that point, a certain Dr. Noack. When Dr. Noack, around the middle of 1938, was transferred to another department, his sphere of work in the WIFO was divided among the other experts. That is how the questions of general trade policies were assigned to Dr. Ter Harr, and I was assigned the deferments.

Q. And why particularly you?

A. I assume because I was the only member of the WIPO who had been a soldier in the first world war and who, in addition, was a Reserve Officer. That meant that I knew more about these matters than my colleagues.

THE PRESIDENT: The Tribunal will rise for its morning recess.

(Tribunal in recess until 1100hours.)

THE MARSHAL: The Tribunal is again in session.

DR. DIX: Mr. President, just two minutes for a correction. This morning Mr. Sprecher made a statement for the record about a conversation with three adult defense counsel over the weekend. Just for a correction: I know only adult and mature defense counsel, and besides I should like to say that it is only I who can speak for the defense counsel as a group, and in my absence my colleague Dr. Nelte, so there must be some misunderstanding, which of course can happen.

THE PRESIDENT: Very well. Very well, gentlemen!

DR. ROSPATT: Mr. President, I should like to ask to have the defendants Krauch and Jachne permitted to attend the Commission session this afternoon. Also, I ask that the defendant Gajewski be excused tomorrow morning to prepare for his case.

THE PRESIDENT: Those requests are granted, and may I add that the defendant Kuehne will be excused from attending court this afternoon if he wishes.

You may proceed, Dr. Hoffmann:

BY DR. HOFFMANN:

Q. Mr. von der Heyde, before the recess I asked you why you were in charge of deformat questions in NI 7. Would you please repeat your answer?

A. The question of deformat in Berlin NI 7 had, up to that time, been under the Wipo in the hands of my colleague Dr. Noack. When, in 1938, Dr. Noack was transferred to a different department of NI 7 his work was divided among the other members of the Wipo and I was given the deformat.

Q. And I believe you had already indicated briefly why you were put in charge of deformat.

A. I do not know exactly but I assumed at the time that this work was given to me because I was the only member of the Wipo who had served in the first World War and because I was a reserve officer and therefore was familiar with deformat.

Q. Mr. von der Heyde, you say you were a reserve officer. Does that mean in the Wehrmacht?

A. Yes, of course.

Q. Now, what did you have to do in connection with deformat?

A. This was a question of having men released from their obligations for military service. In the beginning this meant to have them released from maneuvers and military training. The 1900 group to which I belonged was the last one which had been drafted in the first World War. The groups of 1901 and the following, since there was no general military service in

Germany at that time, had not been trained. Therefore, there was a gap in training from 1901 to 1917 when, in 1935, general military service was reintroduced in Germany. The consequence was that at first the Wehrmacht took the younger groups, 1917 and then 1918, for normal military service - that is, service of one to two years. But, in addition to that, the groups from 1901 to 1916 which had not been trained were called up for a short term training. That was eight week courses.

Q. Now, Mr. von der Heyde, what did industry and NW 7 in this case - what interest did NW 7 have in whether a certain employee was called up for maneuvers or not?

A. This piling up of the draft, because of the reintroduction of military service, meant that suddenly a large number of young men were withdrawn from business. That brought about a considerable degree of unrest because suddenly employees were either called up for training in short term courses or for maneuvers or for normal military service of one to two years. Deferment was now the only opportunity for business to secure the necessary people and keep them out of the Wehrmacht which we, by virtue of the laws on general military service, had authority over the drafting of young men.

Q. At this stage of deferments was a use of these men in the event of war discussed at all, or was it simply a putting off of this maneuvers and drafting?

A. At that time only the latter was the case. There was no question of drafting for the event of war at that time.

Q. When did that situation change?

A. As I recall, it changed only in the spring of 1939 after the events in Bohemia and Moravia when individual members of the reserve were called up. At the same time, training in the Wehrmacht had progressed to the point where the younger men were in large numbers receiving instructions from the Wehrmacht as to what they were to do, where they were to report, in case of mobilization.

Q. Mr. von der Heyde, please explain very briefly what a Wehrpass is and to what extent they were issued in Germany after the military

service law was passed?

A. According to the law and according to the practice in the Wehrmacht every person who was trained was given a Wehrpass on which was recorded how he had been trained, to what branch of the armed service he belonged, what rank he had in the Wehrmacht, etc. All military entries, including vaccinations, control roll calls, etc., were always entered on this pass.

Q. Did a German who was subject to military service get this pass personally or was it at some office or what was done with it?

A. As far as I know, every man subject to military service had such a pass and had to turn it over to the military district headquarters temporarily for certain entries, etc., but I am not certain about that.

Q. Was this military pass something secret?

A. No, not at all. That was the pass that every man subject to military service had to carry with him, giving all the personal data about him.

Q. And now you said earlier, Mr. von der Heyde, that a notice was sent out to the individual telling him where to report in the event of war, is that right?

A. Yes. After his training and any maneuvers with the Wehrmacht, each man had an entry made on his military pass indicating the branch of the armed forces or what military agency he had to report to in the event of war, a practice which, as far as I know, existed in all countries with a standing army.

Q. Was this connection between the entry on the military pass and the place of military service something that affected only the man himself and the Wehrmacht?

A. Yes.

Q. Now, what did you, in your dealing with deferments, have to do under these circumstances?

A. I had the personnel list of NW 7. I had to go through the records and discover which employees were in the age groups subject to military service. In Berlin NW 7 there were relatively many because the

average age in this office was relatively low. The entries regarding the individual employees, as far as they belonged to these age groups, I passed on to the department chief, the superior of these men with the observation as to whether the man concerned had already been in the Wehrmacht, whether he would be called upon for maneuvers, etc., and, on the other hand, I inquired of the department chief whether they could dispense with this man at any time. The department chiefs then in turn informed me of their wishes and if their wish was that the particular employee in their department was indispensable in the office and should be released from military service, then I made an application to the military authorities that this man be exempted from military service. That is, first of all exempted from training and maneuvers, etc. The Wehrmacht agency then consulted the chamber of commerce and industry and thereupon decided upon the case.

Q. Then, Mr. von der Heyde, you interfered in the relationship of the man and the military authorities and tried to have him exempted from maneuvers or from being drafted later?

A. Yes.

Q. Another question. Were these deferments identical with the so-called Mob-Plans?

A. No, those are two very different things. The mobilization plans were instructions to producing manufacturing firms what production they were to continue or were to be allowed to continue in the event of war. Deferments had nothing to do with that. They dealt only with exempting certain men from military service.

Q. Did you have anything to do with such mobilization plans?

A. No, and I believe I heard the expression only here.

Q. But you do know, and this has been brought up here before, that deferments were later called M-question. M-question means nothing but what you have just been describing as deferments.

A. Originally, when I took over deferments, I also took over the designation M-questions. At that time the expression meant exemptions from military service. Therefore, military question. Later, as I recall, during the war when I was a Abschrbaufreger of Berlin NW 7 there were a few occasions in the Commercial Committee when certain counter-intelligence questions were discussed under the designation M-question. That happened in 1940-1941 because I was in charge of deferments and at the same time was Abwehrbeauftragter, counter-intelligence officer.

Q. In the time before the war how did you justify an application for deferment?

A. If a department chief wanted to have an employee in his department deferred, then I asked him to give me a very brief explanation of what the person concerned had to do in that department, what his position was, why his work was important and why he and no one else was the suitable person for this work and was indispensable. Then I added to

this explanation an application to the military district headquarters which I sent through the chamber of commerce and industry which had to pass on the application to the military district headquarters. The decision which I received from the military district headquarters I passed on to the department chief concerned.

Q. Did you yourself have any authority to make decisions in this work?

A. No, my work was what I have just described, a mediating activity.

Q. You spoke of the department chiefs to whom you passed on the decisions of the chamber of commerce and industry or the military authorities. Were the department chiefs interested in what deferments were arranged? Did they express any requests?

A. Yes. Every department chief was interested in keeping as many of his employees as possible. Therefore, he was interested in whether there were more or fewer people drafted from his department and, depending on circumstances, he requested deferments with a larger or smaller degree of urgency.

Q. In addition to exemptions from military service were there other sorts of exemptions involved in your work?

A. Yes, but these were not deferments. This was so-called securing. At that time not only were people taken out of business for military service, but they were also taken for civilian purposes for public duty. For example, for building the Reich highway, for building the West Wall, etc. These people too could be claimed. Applications could be made here too for exemption from this labor service as it was called. These applications were not sent to the Wehrmacht, but to the Labor Office. Otherwise the procedure was the same.

Q. Was there a certain general formality required which made such deferments easier in large numbers in big enterprises or could any firm make such applications for deferments?

A. No, there was one absolutely essential prerequisite before a

firm could make successful applications for deferment and that was that this firm was declared war essential and vital, Kriegs und Lebenswichtig. For this reason, as far as I know, at the beginning of 1938 or the middle of 1938, Berlin NW 7 was declared a so-called K & L enterprise at the request of the enterprise.

Q. Do you know what was necessary to become a K & L enterprise?

A. No, what the procedure was I cannot say. I only assume that some application was necessary to the chamber of commerce and industry or the military economy agency.

Q. Was it to the advantage of the enterprise to be declared a K & L enterprise?

A. Yes, of course, because deferment of personnel was impossible or had no prospect of success if it was not declared a K & L enterprise.

Q. Now, Mr. von der Heyde, this expression, war essential and vital, Kriegs und Lebenswichtig, is rather bombastic, if I may say so. Why was an enterprise like Berlin NW 7 vital and war essential? Do you have any idea?

A. This expression did not exist in 1938. When I took over this work these enterprises were called military economic enterprises, Wehrwirtschaftsbetriebe, and it was only later, I believe shortly after the outbreak of war, that this expression was changed to war essential and vital enterprises.

Q. The expression military economic enterprise -- did that have any significance? Did it mean anything with respect to official supervision?

A. At the moment when an enterprise was declared a military economic enterprise, the competent counter-intelligence office assumed control over it, and took an interest in the enterprise as regards secrecy.

Q. Before I go into the question of secrecy and the Abschrbeauftragter, I should first of all like to ask you how many persons were there in Berlin NW-7 whose deferments you had to work on.

A. I would estimate in Berlin NW-7 there were 200 to 250 men. The majority of them, I believe, were in the age in which they were subject to military service -- perhaps up to 200 of them.

Q. In addition to that, did you have anything to do with deferments?

A. Yes, that was only later. Because I worked on these questions in the Berlin office and consequently was in constant contact with the Wehrmacht agencies in Berlin who handled deferments, I usually learned of new regulations sooner than the other Farben enterprises--for instance the sales combines which were at Frankfurt, Leverkusen, and so forth. For these reasons the sales combines repeatedly inquired and asked us for advice about handling their deferments, and asked to be informed when news came out about new regulations to be issued in Berlin.

Q. Mr. von der Heyde, just one more thing about the situation. Where was the military ministry?

A. That was in Berlin.

Q. That is right. And where did the orders of this ministry come first?

A. They came first to the subordinate agencies in Berlin and from there they went to subordinate agencies in the Reich.

Q. So that you actually got the regulations earlier than other agencies in the Reich?

A. Yes, and consequently I was able to talk to men in the OKW and the personnel office and ask them what intentions existed regarding calling up.

Q. And what were the practical results that in addition to the 250 or 300 employees of NW-7, you were also consulted by Farben offices which were not in Berlin?

A. In the spring of 1939 the consequence was that Dr. Krueger, for the first time, asked me to report to a commercial committee on this question of deferments, and thereby to inform the sales combines and to be available to help them if they had questions in this field.

Q. Who was Dr. Krueger?

A. Dr. Krueger was the deputy plant leader of Berlin NW-7 and was a member of the commercial committee.

Q. Was he your superior?

A. Yes, of course.

Q. Did Dr. Krueger know that you were in charge of deferments in Berlin NW-7?

A. Yes, he had appointed me.

Q. Did you have to go to meetings of the commercial committee if he asked you to?

A. Yes, he was my superior.

Q. And, Mr. von der Heyde, when was the first time that you attended a meeting of the commercial committee?

A. According to the records which I have seen here I know now that it was in May 1939 — 12 May 1939. That was the only time before the outbreak of war.

Q. Can you remember what you said there, relying on the exhibit submitted here by the Prosecution?

A. Not in detail. I know only that I reported on how deferments were to be carried out. For many sales combines that was an entirely new field, but I told about our experience in this field and I also told what I knew about future regulations.

Q. Were you present at the entire meeting of the commercial committee?

A. No. The first time and in subsequent times also the rule was that I was at the beginning of the agenda and then I was outside the agenda and reported briefly on deferments and then left the meeting since I was not a member of the committee.

Q. Mr. von der Heyde, you said that when an enterprise was declared a military economic enterprise, the Abwehr also became interested in it. Now, when the Abwehr became interested, who was appointed in such an enterprise. What was such a man called who received instructions from the Abwehr?

A. The Abwehr agency responsible for this enterprise demanded from the management that a man be suggested for a Abwehr agent.

Q. Now, Mr. von der Heyde, can you briefly explain what, in your opinion, Abwehrbeauftragter was?

A. As the name indicates it was primarily designed to ward off enemy espionage and sabotage in Germany.

Q. Mr. von der Heyde, you say enemy sabotage and espionage in Germany.

A. Well, I should say foreign.

Q. I am talking of the time before the war. Did you yourself become an Abwehrbeauftragter?

A. Yes, for Berlin NW-7.

Q. And how did that come about?

A. As far as I recall the Abwehr office, when Berlin NW-7 became a military economic enterprise, asked the management to appoint an Abwehrbeauftragter and at the suggestion of Dr. Krueger, Dr. Ilgner suggested me.

Q. Now, for what enterprise did you become Abwehrbeauftragter?

A. For Berlin NW-7.

Q. That was the same enterprise where you were in charge of deferments?

A. Yes.

Q. What did you personally have to do in Berlin NW-7 as Abwehrbeauftragter?

A. The Abwehrbeauftragter had to inform the employees of the enterprise about the necessity for secrecy, the proper treatment of secret documents, and so forth. He had to educate them and at the same time see that the official regulations regarding secrecy were observed.

Q. That was your work in connection with the employees?

A. Yes.

Q. Now, with whom did you have to deal in the Abwehr office?

A. I had to deal with the Berlin Abwehr office which had jurisdiction over Berlin NW-7, and there I had to deal with Department 3 W, for Abwehr Wirtschaft, economy.

Q. Mr. von der Heyde, you said Abwehr 3. Were there others then — 1 and 2?

A. The Abwehr organization of the Wehrmacht was divided into three departments — Department 1 was the intelligence; Department 2 was the so-called counter-espionage; and Department 3 was the actual preventing of foreign espionage and sabotage — the Abwehr.

Q. Mr. von der Heyde, when did you learn of this organization of the Abwehr intelligence—when you were appointed Abwehrbeauftragter or before that time?

A. I can imagine that at the time when I was given the appointment I was told about the organization, but actually I learned these details only in the course of time — perhaps at the beginning of the war.

Q. To come back to this again, what did Abwehr 3 mean? Your work in the plant — is that correct?

A. That was the department to which I was responsible. I was responsible to the sub-department economy of Department 3 — that is the department which was in charge of the actual Abwehr, that is secrecy within business.

Q. In this field that you are now describing, did you have to spend a great deal of time — was there any concern lest there be espionage or obligations to secrecy in Berlin NW-7? Was that office interesting enough?

A. No. Abwehr and specifically secrecy questions, was originally intended for manufacturing enterprises — that is factories. That existed much earlier — I believe 1935 or 1936 — in order to prevent patents and processes becoming available to foreign countries through foreign espionage. For commercial enterprises, defense economic enterprises, these questions had not come up hitherto. Consequently we had no experience and not many directives which applied to such enterprises. Consequently the work of an Abwehrbeauftragter in an enterprise such as Berlin NW 7 was a purely secondary task. I could not say exactly how much of my time was spent on these duties, but I venture to say that deferments, depending on the time, took up perhaps a fifth or a quarter of my time, and my duties as Abwehrbeauftragter added to this and made up a third of my work volume. The rest of my time was devoted to my own department.

Q. Mr. von der Heyde, the Prosecution has introduced documents according to which you occasionally had something to do with counter-intelligence Departments 1 and 2, is that right?

A. Yes, that is right.

Q. How did that happen?

A. In about the middle of 1938 I was entrusted with the functions of an Abwehrbeauftragter at first on a temporary basis. Sometime after

that my department chief, Dr. Gattineau, asked me to go to a Major Bloch in the OKW. As far as I know that was because of a telephone call from Major Bloch to Dr. Gattineau. He had some specific question to discuss.

Q. Had you known this Major Bloch before that time?

A. No, I did not know him. From the conversation with Dr. Gattineau I gathered only that he was a personal acquaintance of Gattineau's. That he knew him.

Q. Was it something unusual for a Wehrmacht major to come to you?

A. No, I didn't consider it especially remarkable. It was obvious that the Abwehr office had passed on the suggestion for my appointment made by the firm to the OKW — its superior agency, Department of Counter-Intelligence. This department was to be considered as a whole so that it was not only Department 3, but also Department 1 who must have learned of my name. Therefore I could not understand why Dr. Diekmann should distinguish in his affidavit between Abwehr 1 and Abwehr 3. These were only subdivisions of one department for counter-intelligence Abwehr.

Q. When you were told that you were to report to this Major Bloch, did you know that this Major Bloch worked for 1, 2, or 3 or did you think he was a major from the OKW or the OKM?

A. Only the latter. I knew nothing about his work.

Q. Now, when you went to see this Major Bloch and talked to him, what did he want?

A. What he had to discuss with me the first time or whether he wanted merely to meet me, I really cannot remember. Subsequently, that is in the second half of 1938 or the beginning of 1939, he called me again and asked me to inform him whenever a foreign representative or a foreign visitor came to Farben in Berlin.

Q. When you heard this assignment or order or request — I don't know what you thought it was — what did you think this was, a request or an order?

A. Well, I thought it was an assignment, but I might say as an order from the agency which had made me Abwehrbeauftragter and to which I was obligated.

Q. And what did you do with this assignment which was given you the second half of 1938 — am I right?

A. Yes. Since, as a member of the WIFO, I did not know what foreign visitors came to Berlin, I passed on this request of Major Bloch's to my department chief Cattineau and to Dr. Krueger.

Q. And what did you personally do in response to the request of Major Bloch?

A. If, in the future, at the request of Dr. Krueger, I was informed by the department chiefs of the firm that certain foreign representatives were in Berlin and who they were, I passed on this information by telephone to Major Bloch. Major Bloch then occasionally expressed the wish that he might speak to these men and asked me to tell him so or he would get in touch directly by telephone with the persons concerned and arranged a meeting with them himself.

Q. Do you know whether there were very many men?

A. As I recall there was, from the second half of 1938 to the outbreak of the war, perhaps ten or twelve men.

Q. Do you know what was discussed there? I mean with a man whom Major Bloch asked to come to see him?

A. In general, I was not present at these interviews. I do remember, however, that once or twice I took men from Berlin NW-7 to see Major Bloch, to show them the way — to show them how to find him — where his office was.

Q. And were you then present at the subsequent interviews?

A. No, only at the beginning. I introduced the gentlemen and then left.

Q. As Abwehrbeauftragter did you have any special position in the office?

A. Yes, as Abwehrbeauftragter I was not subordinate to my department chief but directly to the head of the enterprise or his deputy.

Q. Did that have any effect?

A. Insofar as I had closer contact with Dr. Krueger in this way than might otherwise have been the case.

Q. Mr. von der Heyde, I should now like to go over to another subject and that is your connection with the SD. We do not deny that you had a certain connection for a certain period of time with the SD.

A. No.

Q. You said before that you were a member of the Reiter-SS, the SS Cavalry.

A. Yes.

Q. Now, this is not the same thing as the SD. That is something else.

A. That is right.

Q. And how did you get in touch with the SD?

Q.- And how did you get in touch with the SD?

A.- When in 1936 I came to Berlin temporarily, as I said, I remained a member of the Mannheim Reitersturm, I was put on leave status and in 1937 I did not have to report to any SS office in Berlin and did not come under the supervision of any Berlin office. Therefore, for more than a year, up to the end of 1937, I had no connection at all with the SS. At the end of 1937 the Personnel Department of the SD Main Office called me up and asked me to report there. I went to this Personnel Department and was asked first about my personal data, especially my connection with the SS Cavalry in Mannheim.

Q.- Mr. von der Heyde, did you investigate later and find out who had reported you to them and why you were called up?

A.- At the time, I could not understand why they had called me up but later I met a Regierungsrat, later Oberregierungsrat Bolk, in the same department where I worked. He was from the Ministry of Economics. He was not astonished to see me there but welcomed me with the words: "Well, here you are." From this I gathered that this Regierungsrat with whom I had rather frequent official contact had reported me to the SD Main Office because he knew from what I had said that I was a member of the SS in Mannheim.

Q.- When you went to this SD Office that time, where was it and what did you find when you got there?

A.- I was told the number of the building in the Wilhelmstrasse and the number of the room, too, to which I was to go. I found a man there who asked me these questions about my personal data and asked me whether I was willing to work for a newly created economy and industry department of the SD.

Q.- Mr. von der Heyde, you just said that you were told a house number in Wilhelmstrasse.

A.- Yes, Wilhelmstrasse.

Q.- Do you know where the notorious Reich Security Main Office was?

A.- In Prinz Albrecht Strasse.

Q.- Did you know enough to know there was a difference between Prinz Albrecht Strasse and the building in Wilhelmstrasse to which you were sent?

A.- Yes, of course.

Q.- You weren't frightened when you were told that you were to report to the SD because you weren't sent to Prinz Albrecht Strasse but to a different street?

A.- No, I wasn't frightened at all. I didn't know what the SD meant at that time.

Q.- Now, please very briefly tell what suggestion was made to you?

A.- I was told that in the SD Main Office an Industry and Economy Department had been set up and that I was to get information for this department about conditions in the chemical industry. The new department wanted to get inside into the structure and organization of the chemical industry in Germany, about the figures and involvements among the various enterprises, the connection and production and so forth.

Q.- And what were you supposed to do?

A.- As an employee of Farben, I was to advise this new department whenever questions came up that had to be clarified. I was not to work for them regularly but I was to be called upon from time to time and asked for information.

Q.- Mr. von der Heyde, did you find a big agency in Wilhelmstrasse or did it make the impression of being something new?

A.- As I recall today, the office to which I reported there was a personnel office where I immediately got in touch with the man working in this industry and Economy Department -- or only later; I don't know. In any case, I was referred to the competent official; that was the head of the Industry Department, Dr. Eylers.

Q.- And what did he tell you?

A.- Dr. Eylers informed me about his work. I must say I was astonished when I found out that Dr. Eylers knew virtually nothing about this structure and organization of the chemical industry. Very soon thereafter I gained the impression that I was to give Dr. Eylers a sort of elementary instructions because the questions that he asked me were things that were quite well known in Farben.

Q.- Mr. von der Heyde, were you willing to give this elementary instruction to this Dr. Eylers?

A.- Since a Berlin SS Agency had got hold of me, I was quite willing to do this service because it was in effect no service for me. I had no regular hours of service. I did not have to be at their disposal constantly. I was merely called upon from time to time for information. Therefore, my service was at irregular times and I was asked about a field of work which was actually my own field.

Q.- Did you have any feeling that there was something morally wrong with this business?

A.- No, To the best of my recollection, I did not have any such feeling at all. It was a question of giving information in purely technical questions. Questions of business and industry, with which I was constantly working in my own office, and I had no misgivings about working with Dr. Eylers. Dr. Eylers was a man of about my own age and was an official such as I was at Farben and I had no misgivings against giving information to Dr. Eylers.

Q.- Did you keep this whole incident to yourself or did you talk about it in Berlin NK-7?

A.- No. Dr. Eylers said nothing to me about secrecy and, since I did not know enough myself about the questions that came up in the beginning -- I had been in Berlin only a year at that time -- I very soon went to Dr. Krueger and asked him to answer a question for me which I had been

asked by the SD. In most cases the questions could be answered by sending the Industry Department pamphlets which we had prepared in Farben — for example, the so-called Silver pamphlets, the Green Book, etc.; also, for example, reports of the Vowd about capital investments the chemical industry, etc.

Q.- Were these secret reports or were they publicly printed?

A.- No. They were reports on things which were generally known, statistical information which was in the hands of the Statistical Reich office and which our Vowd also had — and which any economist should have known. That was the reason why, in the beginning, I was surprised at the ignorance of Dr. Eylers and his associates.

Q.- Well, how do you explain the fact that an agency which later became so important as the SD was at that time not familiar with such elementary questions and had to get the information from you?

A.- Later I was able to understand it. This department had been newly found and it wanted as soon as possible and as easily as possible to increase its knowledge about industry, in my case about chemical industry.

THE PRESIDENT: It is time to rise for lunch.

(The Tribunal adjourned until 1330 hours, 26 April 1948.)

AFTERNOON SESSION

(The Tribunal reconvened at 1330 hours 26 April 1948)

THE MARSHAL: The Tribunal is again in session.

DR. NELTE (Counsel for defendant Hoerlein): Your Honors, the prosecution already on Friday handed me the rebuttal documents which concern those counts of the indictment which charge Professor Hoerlein alone or together with others. It had originally been provided to submit these rebuttal documents concerning Dr. Hoerlein this afternoon. After a conversation with the prosecution we found that this was impossible because the translation is not yet complete and because the prosecution intends to submit these documents in conjunction with all the other rebuttal material. Under these circumstances, the matter has been concluded as far as the defendant Hoerlein is concerned and he no longer has to be present here. Therefore, I ask you that he be excused from the sessions as from tomorrow.

At the same time, I ask you to make a ruling with respect to the application which in the meantime has probably been handed to you.

MR. SPRECHER: Just one matter for clarification which may not be necessary. The documents which we gave to Dr. Nelte concern those matters principally involved in alleged experiments upon human beings. Of course, they do not contain all the documents or all aspects of the case which involve the defendant Hoerlein in other connections; I mean he was a member of the Central Committee, Vorstand member and so on.

DR. NELTE: I have nothing to add. Naturally, it is the theory of the prosecution that there is allegedly a common responsibility and, therefore, it is possible that Professor Hoerlein is concerned with other documents, too.

THE PRESIDENT: Very well, we understand that situation. Now, just two things: the defendant Dr. Hoerlein may be excused at whatever time he wishes to be excused. We understand the circumstances and, if you will just mention the matter to me, I am sure the Tribunal will make the order at the appropriate time. Otherwise, we shall not expect him in court tomorrow if you say no more about it -- and for whatever period of time

he needs to be absent he will be excused.

With respect to your motion, as I indicated this morning, the Tribunal is going to meet tonight to go over a number of these motions. I may say we have, I think, now 10 motions pending of one kind or another which we intend to dispose of at the earliest possible moment and I have taken the liberty of putting your motion on the top of the pile, Dr. Nelte, so it will receive early consideration.

DR. NELTE: Your Honor, I might state that it was not my intention to refer you again to the application that you were referring to but it was the application which I submitted on Friday, the subject of which was that the Tribunal should make the order that Professor Hoerlein be excused from constant police supervision during the time of his illness.

THE PRESIDENT: I understand now what you refer to and you may be assured that you are free to make your plans along that line. That order will be made.

ERICH von der HEYDE - Resumed

DIRECT EXAMINATION (Continued)

BY DR. HOFFMANN (Counsel for defendant von der Heyde):

Q. Dr. von der Heyde, before the recess we were discussing the request made to you by Wilhelmstrasse with respect to the information pertaining to generally known economic matters. Were there questions included which perhaps might have constituted secrets of IG-7, Farben or the entire chemical industry?

A. No. Disclosure of any plant secrets, of IG-7, of Farben, was never asked for and would never have been surrendered by me. Here we were concerned with material which was generally known to anyone who was interested in economics and economic politics; it particularly concerned questions with respect to matters of chemical industry from a financial or production point of view. These were matters which were known by every expert.

Q. Be that as it may, at any rate, you were a member of the Berlin IG-7 agency, were you not? Did you not have the feeling that, even taking

into consideration the harmlessness of those questions, somebody of NF-7 had to inform you about them?

A. I already said that very soon after this order I informed Dr. Krueger about it. That happened almost automatically because of the fact that I was not a financial expert and I had to inform Dr. Krueger because, firstly, he was the deputy plant leader and, secondly, he was the head of the Central Finance Department. That means that he was the personality in Berlin NF-7 who could inform me about matters with respect to which I was not an expert.

Q. Did Dr. Druoger at any time express the desire that some questions pertaining to NF-7 on Farben or the entire chemical industry were better not to be answered?

A. I don't recall Dr. Krueger having said to me directly that the reply to this or that question was not desired by him. However, I did have the impression on a few occasions that he was rather reticent with respect to answering some questions.

Q. And what did you do in a case like that?

A. I transmitted the answers in the same way as I received them.

Q. And now a personal question to you, Mr. von der Heyde; when you replied to those questions did you consider yourself a member of the SD? What was your impression of your own position?

A. I never considered myself as a member of the SD for the simple reason that Dr. Eilers of the Industrial Department never issued any order to me. I was always telephoned to and asked to come. If I was prevented to come at the time, I always said so, and did not go. I was never then urged to come. Apart from that, this questioning, this obtaining of information happened at such irregular intervals and so very rarely that I could never entertain the thought of being a member of the SD.

Q. How would you then designate the position which you held?

A. At that time I considered myself to be the information agent to industry and economy. Today I know that I must have belonged to that large number of "V" men who were assigned to the SD. They were called either "honorary assistants" or "V" men--confidential men.

Q. Dr. von der Heyde, you said that you gave such information on very rare occasions, or on comparatively rare occasions. Would you perhaps specify how often that occurred and during what periods of time?

A. At the time my services were used -- most frequently -- and I think that was in 1938--I was telephoned to twice a week on the average. That, however, varied. It was necessary from time to time, whenever a question was to be put to me or whenever some information was desired. It happened once a week or sometimes three or four times. Each time I had to go to Wilhelmstrasse. Dr. Eilers had large charts there, and he mostly put a single question to me, such as: "Do you know anything about this industry, or that enterprise?" These were in every case factual questions.

Q. Were you always able to answer these questions immediately, or did you have to go home first and find out?

A. I already said before that I had only been in Berlin for something over one year. Since, in addition, I was not an expert in the financial and economic-political field, I could only in very rare cases give my reply immediately. In most cases I discussed with Dr. Eilers whatever he wanted to know. Then I either obtained material about that matter from the VWI or from another department of the enterprise. Sometimes I asked Dr. Drueger and received some information from another department. Having gathered the information, I took it to the SD.

Q. All this has been a long time ago, but in spite of that can you remember any specific question in order to make this very clear?

A. Perhaps I might clarify that matter by citing a case from a somewhat later period. One day Dr. Eilers asked me what connection the Metallgesellschaft Frankfurt had with Farben. Dr. Eilers told me that in

the case of the Metallgesellschaft Frankfurt we were concerned with a new appointment of the Vorstand, and that a Vorstand member was to be sent to the Metallgesellschaft by Farben. I was not informed about the relationship between the Metallgesellschaft and Farben. The Metallgesellschaft as such was not even known to me.

I discussed this matter with Dr. Krueger. I related the affair to him, and he at first gave me the material information pertaining to this matter. Simultaneously, however, he asked me to discuss these matters with Dr. Silers, and later with his successor, who was Ohlendorf, and to ask him what the desires of the SD Main Office were with respect to the new appointment of the Vorstand for the Metallgesellschaft. The result of this conversation with Ohlendorf at the time was that the Gauleiter at Frankfurt, Professor Luehr, expressed the desire that Farben would appoint either no Vorstand at all into the Metallgesellschaft or that Farben was at least not to receive the chairmanship in Vorstand of Metallgesellschaft.

Q. Mr. Sprecher just pointed out to me that Luehr was a Gauwirtschaftsberater (Gau economic advisor).

A. Yes, I beg your pardon; he was not a Gauleiter. That was my mistake.

Q. Is it correct that after this inquiry you found out that the Party tried to attack Farben through the medium of the SD?

A. Yes, that is correct, but I already said that that happened much later. This case may have occurred at the end of 1936, as far as I remember.

During the first part of my collaboration with the SD I did not know the reasons or the background as to why I should give information on a certain matter. But in this case of the Metallgesellschaft, as a result of my conversation with the officials of the SD, it had become clear to me why the question was put at all pertaining to the relationship between the Metallgesellschaft and Farben. In this case of the Metallgesellschaft I reported to Dr. Krueger that the Gauwirtschaftsberater (Gau economic advisor) Luehr of Frankfurt had the intention to appoint a Party man,

Avioni into the Vorstand of the Metallgesellschaft and that for that reason he was opposed to Farben having any share in the composition of the new appointment of the Metallgesellschaft Vorstand.

The consequence was that Dr. Krueger asked the son-in-law of Dr. Bosch, Dr. Kissel, to go to Berlin, who was chosen for that position by Farben, and he then asked me to mediate for a conversation between Kissel and Ohlendorf. At that time I went to the SD Main Office with Dr. Kissel to see Ohlendorf, and during the conversation between these two gentlemen I could observe how strong the animosity and the opposition was on the part of the SD Main Office toward Farben. Ohlendorf at the time, upon the initiative of Prof. Luhr, tried to convince Kissel that the proper Vorstand member for the Metallgesellschaft would be that Party member, Avioni, and he asked that Farben should keep out of the Metallgesellschaft.

Q. Mr. von der Heyde, we have gone rather far into your field of activity, and you mentioned the name Ohlendorf when making your explanation. This is a new name; up to now we have heard only Eilers, and now we hear the name of Ohlendorf. Whom of the SD did you come to know, as far as you remember? I might even include the entire SD in my question.

A. As far as I remember, I met at the SD Main Office Dr. Luhr, with whom I had current dealings. Then after the middle of 1938, when Dr. Eilers was transferred to Vienna, I met Ohlendorf, and then later an official, Dr. May.

Q. Did you ever meet men like Fohl, Himmler, Hitler, or other Higher SS or Party functionaries?

A. No.

Q. Mr. von der Heyde, up to now we discussed what the inquiries were which were directed to you by the SD and to which you replied. Did it ever occur that you were approached by another department, let us say, NV-7, to intervene on behalf of persecuted persons?

A. Yes, that started very soon after the beginning of 1938. Dr. Krueger at the beginning of 1938 asked me to intervene on behalf of the emigration of Prof. Flechtheim, who was a Jewish advisor of Farben, with

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respect to his emigration from Germany and with which he had not been successful.

I visited Prof. Plechthain twice and I then discussed his troubles with Prof. Ellers and then Ohlendorf of the SD Main Office.

In the case of Prof. Flechthelm I managed to succeed in getting the approval for his journey out of Germany. He was to attend a conference of the I.G. Chemie Basel, about which mention has been made in a Prosecution document, Exhibit 1027, NI-8498, Prosecution Book 50, German page 66. This is the conference at Basel on the 31st of March, 1938. At that time I managed to persuade Eilers that it was necessary for Farben to send Prof. Flechthelm to attend this conference at Basel. Prof. Flechthelm then never returned to Germany.

Q. Wasn't that dangerous for you? Couldn't Eilers or Ohlendorf suspect you on that ground?

A. That Prof. Flechthelm did not want to come back to Germany was not told me in that definite way. I suspected it, but with a clear conscience I could ask that the SD give its permission for his journey to Basel only. I didn't really know about anything else.

Q. You said you suspected it. That means that you actually had nothing against his not returning?

A. No; on the contrary, that was my desire. If Prof. Flechthelm had already decided on that course, I wanted to help him.

Q. Could you perhaps tell the Tribunal of other cases where you were used in that respect?

A. Are you referring to cases where Jews or Jewish employees of Farben were assisted in getting permission for their emigration?

Q. Yes.

A. Well, there was a number of cases during the subsequent period. There prevailed the tendency in Farben to assist the Jewish employees of Farben and their friends as far as possible in their emigration. A large number of such cases has already been mentioned in the Defense documents. In such cases, as far as the SD was able to help, the practical work had to be done by somebody, and in many cases that was I. From memory I could now mention the case of Professor Eggert. One day, upon the instigation of Dr. Gajewski, as he told me, Professor Eggert visited me, whom I had not known up to that time. Prof. Eggert

worked in Bitterfeld, where he was a director there and he told me that his wife was Jewish and he had considerable difficulties as a result. He intended, he said, to go abroad. He said that he heard that I had some connections with the SD Main Office, and he therefore asked me to intervene on his behalf with respect to his emigration. Prof. Eggert visited me twice or three times and, in the same way as in the Flochthorn case, I intervened on his behalf with the SD Main Office. However, I had no success in that case. I did not succeed in obtaining the approval for Prof. Eggert's emigration. I never heard anything again later, but I know now, however, from documents here that thanks to Dr. Gajowski's efforts and thanks to the help of the SD Main Office, Prof. Eggert and his wife had experienced no harm up to the end of the war.

Q. Now, if you know of any other cases would you please mention them very briefly without going into details?

A. There was another case, the case of Dr. May. That happened in the second half of 1939, as far as I remember. Dr. Ter Meer asked me to intervene with SD Main Office on behalf of the emigration of Dr. May who had been working at Wolfen. Dr. Ter Meer and I went to Ohlendorf together at that time and tried to persuade him that Dr. May was not, as Ohlendorf thought, a bearer of secrets (Geheimnisträger). The word "bearer of secrets" (Geheimnisträger) referred to persons who in some way or other were acquainted with secret processes or patents and where it was feared that if these persons traveled abroad they would transmit the knowledge of these secret processes and patents. Unfortunately, we did not succeed in obtaining the emigration permit for Prof. May. But we could prevent Dr. May's arrest. This afforded him an opportunity to escape from Germany illegally. Moreover, I might mention the cases Suhr, Klatt, Petrich, Louts, and others.

As time went on, it was shown that not only important men of Farben asked me to intervene as far as the SD Main Office was concerned, but in the NW-7 agency and in other agencies, too, this was talked about.

Dr. Klatt came to me from the VOMI, who was a Jew or half-Jew, and asked my advice, whether it would be possible for him to get an emigration permit. He asked me what to do. After having obtained the necessary information pertaining to his case, after having investigated as to whether it would be possible to get the permit for him, I had to advise him to rather try and cross Germany's frontiers illegally.

Q. I wanted to ask you what was meant by the term you used "Grüne Grenze," but I found out that the interpreter found the right translation.

What you mean by that is an illegal crossing of the borders?

A. Yes, we called it "going over the green border." That means going over the border without having received permission.

Dr. Klatt one day actually escaped to Switzerland and is today, as I heard after the war, a high agricultural advisor of the British Military Government. As far as I know, he was my only colleague in N-7. He was an agricultural expert with the VOMI.

Q. Now, Dr. von der Heyde, we have now discussed the positive part of your connection with the SD. Let me now turn to the negative part. I shall now put the economic reports which you transmitted to them only on the third place, as it were. The SD naturally also asked you for political conduct certificates and other reports, which they wanted to exploit for spying purposes and against some people. During your entire activity and during the entire time you were connected with the SD, did you ever make such political or personal conduct reports?

A No, never. I was never asked for them, and I would have refused giving any such personal conduct reports.

Q Did you report any persons to them, or did you supply any material for such purposes?

A No, never.

Q If I now draw up a balance sheet, so to speak, what exactly was it you gave to the SD positively?

A At first, when the industrial and economic department had only very little material, I think that I constituted the convenient information source for that department. By "convenient" I mean that the department could have easily inquired at also the economic groups Reich agencies, etc., about these matters, though no, however, the SD Main Office, that is to say that the industrial and economic department of that office, received such reports in a much easier way. I believe that this supply of information, actually located in the house of the SD, meant a very convenient channel for Mr. Eilers of the SD.

At a later date, that is during the second half of 1938, when the elementary instruction as I used to designate it, was no longer necessary, the amount of information I gave to the industrial department of the S.D. was much smaller than the information requested from them. That was the reason why Dr. Eiler's and especially Ohlendorf's attitude towards me, became cooler and cooler. In 1939, in particular, I gained the impression that Ohlendorf felt suspicious towards me, and therefore I was less and less successful with my applications to him.

Q Mr. von der Heyde Ohlendorf was a cross-examination witness before this Tribunal, and I asked him, according to Transcript page 4,521 about your signature significance. He said that you had such little significance that, "I", Ohlendorf attached no value in giving him time for conference with me". Can you say anything about that opinion as it was voiced by Ohlendorf about you?

A No, that was in accordance with what I remember. I may well

understand that I, in my opinion, as a simple employee, was not able to offer much to Ohlendorf, and for that reason I felt that he was disinclined to further collaboration with me.

Q The Prosecution, Mr. von der Heyde, has submitted one or two documents from your personal card index, according to which you had been promoted in the SS. How were you promoted, and what did such promotion mean to you personally.

A From 1933 to 1936, at Mannheim, I was promoted to the rank of Hauptcharfuhrer. The Cavalry Unit 7 at Mannheim, as I explained it before, had been newly established, all of the people there held no rank they were all new. The Senior ones promoted somewhat quicker to the rank of Hauptcharfuhrer. When, in 1936, I was given leave of absence from the Cavalry Unit No. 7, it had been agreed that two or three of my comrades were to be promoted to Untercharfuhrer.

Q What is an Untersturmfuhrer as a comparable rank to a Wehrmacht rank?

A That is a Lieutenant it corresponds to a Lieutenant. Then I was promoted to a Untersturmfuhrer in January 1938 in Berlin. I thought that that was a natural consequence of my promotions in the Reitersturm, Cavalry Unit, in Mannheim. I only found out here that allegedly Ohlendorf was to have played a part in my promotion in Berlin. It was my impression at the time that this was the promotion which was already discussed at Mannheim, which only caught up with me in Berlin.

In September, 1939, I was promoted to the rank of Obersturmfuhrer, and in January 1941, to the rank of Hauptsturmfuhrer. These two promotions did not appear to be remarkable to me in any way. This means a natural continuation of my promotions, and on the other hand, I had been registered in the SD Main Office as Abwehrbeauftragter of Berlin NW 7 and I only considered to be a promotion which the SD Main Office desired on the basis of my function as an Abwehrbeauftragter.

The registration as an Abwehrbeauftragter was not made in the Industrial Department of Eilers and Ohlendorf. It had nothing to do with them. The industrial department of which I spoke before, and my activity in that department had nothing to do with my position as Abwehrbeauftragter.

Q Von der Heyde, I also asked Ohlendorf before this Tribunal, when cross-examining him, on page 1,421, what he knew about your promotions: He said that you were his V-man, his confidential man, and since he could not pay you in the same way as all of the other V-men, he says, and I quote: "The only thing we could offer our V-men, and particularly since von der Heyde looked very smart in his uniform and apart from that was an Abwehrbeauftragter, it was our opinion that it would be a nice gesture on our part, to promote him to the rank of Hauptsturmfuehrer, because at that time the rank of a Hauptsturmfuehrer did not yet have that significance which it had received here today".

You have explained somewhat this testimony of Ohlendorf. What I want to know now is this, did you frequently wear this SS uniform?

A No, I might say that according to my best recollection, from 1937 to 1939, I only wore the uniform on two occasions.

Q Mr. von der Heyde, Mr. Ohlendorf discusses the significance of the rank of a Hauptsturmfuehrer. I do not want to discuss this rank here in any way, but I want to ask you quite personally, were you very proud of this promotion?

A No, as a Reserve Officer, I did not take seriously the wearing of a uniform in any organization, or any promotion in any organization,

Q Would you perhaps explain that; what do you mean did not take it seriously?

A The rank in an organization - for instance the rank as a Hauptsturmfuehrer in the SS seemed never comparable to me, as to the rank of a Captain in the Wehrmacht, in the Armed Forces. I always had the feeling that it was merely a pseudo rank, - that is, that more was tried to be expressed with it, than really was behind it.

Q You yourself were already an officer in the Wehrmacht?

A Yes, I was reserve officer.

Q Now, Mr. von der Heyde, I should now like to revert to your position in the enterprise. You said that you were an employee of NW 7. Now we know that in 1938, or 1939, you became a Handlungsbevollmächtigter. Would you please give us the date?

A As far as I know that was May, 1939. I do not know the exact date. I am sure that it was in the spring of 1939.

Q Mr. von der Heyde, we have both discussed how this word Handlungsbevollmächtigter was to be translated into English. Tell me what you consider to be the correct translation of that expression?

A In my opinion the German expression "Handlungsbevollmächtigter" is a subject to misunderstanding. Handlungsbevollmächtigter is an employee who is authorized to sign on behalf of his firm, but only for the so-called petty, minor correspondence, - that is to say, the internal correspondence within the firm, and also the second signator for the counter signature of letters which were not legally binding for the enterprise. The Handlungsbevollmächtigter was not, accordingly entered in the Trade Register as was done in the case of the Prokurist. The Handlungsbevollmächtigter signed on the strength of the authority given to him by his enterprise only.

Q Now how can you explain the fact that you became Handlungsbevollmächtigter Mr. von der Heyde?

A In 1939, I had been with Farben for over 13 years. I was active in the Economic Political Department, and there I was the Senior Farben man. Three of them my colleagues had become Handlungsbevollmächtigter before me, and all other experts of WIPO, as time progressed, received this position. This had been intended already at the time.

Q. Now, Mr. von der Heyde, up to the beginning of the war, in September, 1939, would you give me a short summary of your activity in NW 7?

Q. At the outbreak of the war I once had under me the technical field of work of Nitrogen and Agriculture. That was my field of work as an expert. In addition, as of the 1st of January 1939, I dealt with the field Wehrwirtschaft (Military economy). That was the name of the Department which was formed on the first of January 1939, and which included activities with respect to deferments as well as my function as an Abwehr representative.

As of the 1st of January 1939, my associate, Dr. Ruediger, was in that department. In addition, as I have already explained, I had my Abwehr functions. I was the Abwehr representative of Berlin NW 7, and in addition I had to maintain connections with the SD main office. I think that will give you a complete survey of my position.

Q. Mr. von der Heyde how did the situation change after the outbreak of the war; at first with respect to the professional and technical field of work?

A. After the outbreak of the war, my tasks in the technical field decreased ever more, foreign trade decreased, export of nitrogen was no longer possible, and the treatment of agricultural economic questions within the framework of foreign trade, was also restricted; that meant that the significance of the Department for Agriculture and Nitrogen lost its significance. The department War Economy, and in particular the question of deferments became more important outbreak of the war. Every plant leader was interested in safeguarding the necessary personnel which was essential, for the plant, from being drafted into the Wehrmacht. On the other hand, the activity of the Abwehr, remained the same during the war, but regulations became more stringent, and the control in the factories was tightened up.

Q. Mr. von der Heyde, I quite understand that in the field of deferments your field of work increased, but did your position change too? Did you receive any authority to make decisions or did you remain the same official?

that you were before the war?

A. I was just the same expert that I was before the war; my work only changed with respect to the relationship between my technical field of work as an expert and my former side line, that is deferments and Abwehr.

Q. You are mentioning the word, "Abwehr". How about the field of Abwehr, counter-intelligence? Until the beginning of the war you were the Abwehr representative only for NW 7; how about after the war, - I mean after the beginning of the war?

A. After the outbreak of the war I remained Abwehrbeauftragter for NW 7 as before; only in the spring of 1940 that situation changed, when the Office A was set up in Berlin.

Q. How did that happen?

A. The Abwehr Department of the OKW asked all of the large enterprises in Germany, at the time, who had a number of plants dispersed through the Reich, to set up a central office, to appoint a main Abwehr representative, Hauptabwehrbeauftragter, who was to maintain uniformity with respect to the Abwehr measures in all plants. As in the case of all other enterprises in Germany, the government asked that Farben, too, appoint an Abwehrbeauftragter. As a consequence of this order Dr. Schneider was appointed as the Hauptabwehrbeauftragter for Farben. Since Dr. Schneider, however, did not have his residence in Berlin, where the OKW Abwehr was, but in Leuna, the Abwehr Berlin demanded that a liaison office be set up which was the Office A. Dr. Schneider then incorporated the Office A, into the building of the Berlin NW 7, although, however, the Office A had nothing to do with Berlin NW 7. Two experts were to be employed at the Office A, one for the technical sector of Farben, that is for the producing plants, and one for the Commercial agencies of Farben. For that purpose, those two representatives were used who were available in the locality of NW 7. It was the technician, Dr. Dieckmann, who up to then had been the Abwehr representative of the Vermittlungestelle W, and for the commercial sector it was I who up to that time had been the Abwehr representative of Berlin NW 7.

Q. Did you ask that this position be assigned to you?

A. No, in the same way as Dr. Dieckmann, I was appointed.

Q. For how long did you work in the Office A?

A. From the spring of 1940 until September, 1940, when I was drafted into the Wehrmacht, as far as responsibilities were concerned. After I was drafted into the Wehrmacht, I stayed for some time, I think until the middle of 1941, in order to train Dr. Ruediger, who was to become my successor. And, also I was in the Wehrmacht, I helped in a number of cases.

Q. Dr. von der Heyde, you said that from September 1940 -- the day you were drafted -- until spring of 1941, you trained your successor, Dr. Ruediger. You don't really need five months, do you, even in difficult cases? Why did it take so long?

A. Well, from the 5th of September 1940 onward, I was a soldier, that is, I had to do military service which took up my time. I only had enough time to train my successor in the evening after service was over, or sometimes I did that when I was on leave for half a day or an entire day when I was given leave of absence from my post of duty. At the most, I had a few hours per week at my disposal to train my successor.

Q. I should like now to revert to the half a year when you actually worked in the Office A. What actually were your duties as the expert in the commercial field?

A. I already said that the main Abwehr representative and his Office A had to safeguard the uniformity of the counter-intelligence matters in all the plants of Farben. In the commercial agencies the counter-intelligence--the Abwehr--meant something relatively new. I mentioned that before, when discussing my tasks as Abwehr representative in Berlin NW 7. In 1940, the Abwehr issued directives and regulations for the first time for the execution of Abwehr measures in commercial and administrative enterprises. My task, as an expert in Office A, was to transmit these guiding principles to the local Abwehr representatives of Farben, who now and afterwards still were held responsible for their own Abwehr measures. I had to transmit and to explain to them these new regulations, and I had to discuss with them whether these Abwehr measures suitable and practical or whether they would perhaps render impossible or disturb the work in the factories. In Office A, I merely had to deal with basic questions of Abwehr within the framework of Farben.

Q. Mr. von der Heyde, during cross examination -- I don't remember what cross examination--but at any rate the prosecution has submitted Exhibit 1905, Document NI-11075

A. That was the cross examination of Dr. Schneider.

Q. These are minutes of a conference which you attended and where you made some statements and where Abwehr was discussed in the commercial field. It was done in a very colorful way. Did you draw up all that? How did you work in that field at the time?

A. Some time after the office A had been set up, OKW Abwehr No. III asked for a meeting of all local Abwehr representatives of Farben and of the Office A in order to explain the regulations issued by the experts of Office A. It was Dr. Dieckmann's task and mine to explain to the local Abwehr representatives of Farben what the new directives were and how they were to be understood with respect to the various plants which the men had to supervise in their capacity as Aufsichtsabwehrbeauftragte. Exhibit 1906, NI-11075 shows that I made a statement concerning the security police activity of the Abwehr representative. That is page 5 of that Document, paragraph 4. The prosecution has submitted in addition the directives for the security police activity of the Abwehr representatives; that is, Exhibit 163, NI-2883, Book VI, page 116 English, 184 German. If one compares these two documents, one sees very clearly that, at the time when I made my statement, it was only a repetition of the official directives. I refer you to page 6 of Exhibit 163 where the same expressions are being used as on page 5 of Exhibit 1095. In both cases, mention is made, and I quote, "of the unrest among the employees (political or strike incitement, atsocty prorneganda. etc.)."

Q. Having given me this explanation, would you answer one specific question? What you have said about this document, Exhibit 1095, was that a verbatim or a most verbatim presentation of the directives given to you by your superior authorities in your capacity as Abwehrbeauftragter and which were to be passed on the plant Abwehr representatives?

A. Yes. As is shown by this example, I wanted to express that we received mimeographed or printed directives from the Abwehr agencies and that it was our job to transmit these directives to the local Abwehr representatives and to explain those to them

Q. Another question, Mr. von der Heyde. In your capacity as Abwehr-beauftragter of NW 7 during the time up to the war, had you anything to do with foreign workers or concentration camp inmates?

A. No, never.

Q. But now, after the war, can you remember now whether from the beginning of the war until you were drafted into the Wehrmacht, that is September 1940, either in your capacity as Abwehrbeauftragter of NW/7 or in your capacity as expert in the commercial sector of Office A, that is as the representative of the Hauptabwehrbeauftragter of Farben, you had anything to do with concentration camp inmates, foreign workers, or prisoners of war?

A. No, never. In Berlin NW/7, we neither had foreign workers nor prisoners of war, and naturally no concentration camp inmates. In the sales combine and commercial enterprises of Farben, as far as I know, there were no workers of that kind at all. That is why I had never anything to do with these categories.

Q. Can you explain how that came about?

A. You mean that we never had anything to do with prisoners of war?

Q. Yes, the war started in September 1939.

A. Well, but in the sales combines of Farben, I never saw a single prisoner of war or a single foreign worker. I don't believe that any such workers were employed there.

Q. Now, Mr. von der Heyde, in September 1940, you were drafted to the Wehrmacht. Did you ask to be drafted or did you have to go or could you have requested to be exempted, or how was it.

A. At that time I was very pleased about having been drafted into the army. I could have got a deferment but the change in my sphere of work as it occurred as a result of the outbreak of war, didn't please me very much. I already said that my technical field of work decreased to a greater extent as a result of the conditions of war. On the other hand, also as a result of the conditions of war I was more and more diverted

on to a side-track; that is to say, I was pushed into a side line which did not represent my profession at all. It had to do with counter-intelligence work and with deferments and exemptions. That is why I didn't particularly enjoy my work. I never studied counter-intelligence and I never became a doctor for deferments. I was an agricultural expert and I could only exercise my work in that respect to a very modest extent. That is why I gratefully welcomed my being drafted into the Wehrmacht.

THE PRESIDENT: It's time to rise for the recess.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Dr. Hoffmann, before you resume, Judge Hebert has an announcement to make on behalf of the Tribunal. Just for a very short time.

JUDGE HEBERT: This announcement, I believe, will clarify some of the matters which we discussed this morning.

The Tribunal wishes to place on record certain decisions which have been reached following a conference held last week with Dr. Dix and Dr. Gierlichs as representatives from defense counsel. These remarks will also be applicable to the schedule for the presentation of the remaining evidence, which schedule has also been considered by the Tribunal.

The Tribunal has agreed, at the request of the defense, to allow two additional days to the defense for oral argument. It is understood that this decision will make it possible for the defense to cover in their arguments the general matters of defense applicable to all the defendants and that it will facilitate the division of argument time among the defense counsel. The Tribunal informed representatives of defense counsel that it was unwilling to extend the date previously set for the closing arguments. However, the Tribunal has agreed to assist in working out an additional period of approximately one week for counsel to have time for work on their briefs. This can be accomplished by completing all of the evidence by May 12 instead of the original completion date of May 19, as was previously indicated. If the evidence should be completed before May 12, counsel will also have that additional time. Additional time for work on preparation of the briefs is also provided by changing the date for the submission of the briefs to June 2, which is the date set for the beginning of the closing arguments.

To make the matter entirely clear, the following is stated:

1. All evidence included, should be presented before the conclusion of the trial day May 12. This date applies also to the evidence

now being taken before the Commissioner. Counsel are requested especially to note this phase of the statement in order that the attention of the Tribunal may be directed to any matters which the Tribunal should refer to the Commissioner.

The oral argument will begin on Wednesday, June 2, 1948. By that date, the closing briefs of both the prosecution and the defense must be filed. The briefs for the defense will be translated and processed during the period devoted to oral argument.

3. The closing argument or final pleas must be submitted not later than ten days prior to June 2 in order that they must be translated and mimeographed. It will facilitate matters if counsel who may have their statements prepared prior to that date will submit when they are available in order that congestion in the processing departments may be avoided to the extent possible.

Also, by the date set for the filing of closing arguments, it is requested that Dr. Dix file with Judge Merrell a list setting forth the order to be followed by each defense counsel in conducting arguments. This will assist in the processing of the closing arguments should any congestion or shortage of time develop.

I might also add that from the experience of the other Tribunals there is a danger that more material may be submitted for processing than can possibly be used in the time allotted for the arguments. This, of course, should not be done for two principal reasons. It's not fair to other counsel who stay within the time allotted for oral arguments and it's also a great burden on the processing staff which will thereby tend to delay delivery of the other arguments and the finished briefs. Where this has arisen in other cases it has been necessary to arbitrarily limit that material. We trust that it will not be necessary for this Tribunal to take any such steps and that you gentlemen will keep that in mind.

Now, with regard to the schedule for the presentation of the evidence, submitted by Dr. Dix, it has not been possible to adopt in all

of the details that schedule in the exact form submitted. First, as was indicated this morning, the order of presentation is controlled by the availability of documents. We checked on the documents this morning and it is expected now that all of the documents will be available by the latter part of this week, so that that problem is being solved.

Now, secondly with regard to the schedule, we note that defense counsel have requested time for the presentation of evidence beyond that allowed in the original schedule announced by the Tribunal, including the reservations that have been made during the presentation of evidence. The Tribunal does not feel that it is able at this time to approve requests for allotting additional time beyond that originally allowed. Of course, as we proceed during the remaining trial days, the Tribunal will be glad from time to time to resurvey the matter and to make such adjustments of a minor nature as may be necessary and proper.

It should be pointed out also that the prosecution is limited to one-half day for the presentation of rebuttal evidence. Furthermore under the procedure we have been following, it is considered that very little time, if any, will be required for evidence in answer to the rebuttal evidence.

The schedule for the current week and thereafter will, therefore, be in the following sequence:

The completion of the case for the defendant von der Heyde.

Then there will follow the presentation of evidence for the defendant Kuechler.

Completion of the evidence then for the defendant von Schnitzler for which two-thirds of a trial days has been reserved.

Conclusion of evidence for the defendant Ter Meer for which one-half day has been allowed.

Then will follow the conclusion of evidence for the defendant Schmitz for which one-half trial day has been allowed.

This will be followed by conclusion of evidence for the defendant Krauch for which one trial day has been allowed.

Then there is the matter of the conclusion of evidence for the defendant Leutenschlaeger but the exact time for the presentation of this evidence will have to depend upon the availability of Dr. Pribilla who may have to go to Switzerland in connection with another phase of the case to be conducted by the Commissioner.

Then there will follow the submission of the outstanding evidence by various defense counsel in which respect we will follow the sequence stated in the memorandum supplied to the Tribunal by Dr. Dix, and a memorandum setting forth this sequence will be furnished to both prosecution and the defense by the Tribunal.

It should be particularly noted with regard to this entire time schedule that it is not possible to specify in advance an exact calendar date for the beginning of all of the remaining evidence. Counsel must necessarily be prepared to assume the burden of being ready to proceed without interruption when their position is reached in the sequence suggested for the further presentation of evidence.

The Tribunal also thinks that it would be helpful, Dr. Dix, if you would, on behalf of defense counsels designate one person as the proper party with whom we might coordinate such administration details as arise. In the event that there should be any revisions or adjustments in the course during the closing days of the trial, that person might be speedily contacted and I think you can appreciate the fact, with so many persons involved, that someone should follow it through to the last administrative detail on behalf of counsel and that you might perhaps want to designate someone to assume that burden for you.

THE PRESIDENT: You may continue now, Dr. Hoffmann.

BY DR. HOFFMANN:

Q.- Before the recess you said that you were glad to go into the Wehrmacht because after the outbreak of the war you had gone further and further away from your own professional field of agriculture and you mentioned in this connection the deferments and your position as Abwehrbeauftragter in NW 7 and later as the manager of the commercial sector in Office A. Now, I want to ask you, up to the war or up to the year 1939 you had a connection with the SD. Now, during the war you have not spoken of this connection with the SD. What about that? Did it still exist or not?

A.- I have already mentioned that in the course of the year 1939 I had increasingly fallen into disfavor with the men in the SD. The coolness that I could observe in the SD people had become so strong at the time of the outbreak of war that I was glad to take advantage of this opportunity to sever completely my connection with the SD. I was easily able to do so with reference to my increasing duties as Abwehrbeauftragter in NW 7 and actually my connection with the SD main office gradually dropped off in the second half of 1939 so that during the war this connection virtually no longer existed. I may have met May on the street a few times and spoken to him, but I did not go to the SD main office any more.

Q.- Now, Mr. von der Heyde, I should like to come back once more to your work in Office A with reference to the few documents offered by the Prosecution. I mentioned a short time ago Exhibit 1905 and the prosecution at the same time in cross examination of Schneider offered Exhibit 1904. That is the document NI-14271, a document which, in my opinion, is similar to what you have already said about Exhibit 1905, but I still should like to hear what you have to say about this. Please explain Exhibit 1904.

A.- I must go back a little. In 1938 I became Abwehrbeauftragter of NW 7. I received my assignment and was under orders of Department III. Some time later, Abwehr I, in the person of Major Bloch, approached me.

Now, in the same way during the war, especially after Office A was established some time after Abwehr III, Abwehr I - again Major Bloch - came to us with the request that we assist the economic intelligence service of which he was in charge by turning in information - that is, business correspondence that we got from abroad unless it involved Farben business. I, of course, saw nothing particularly remarkable in this.

Q.- You say "of course". Why do you say that?

A.- Major Bloch expressed the wish, before the war, to meet foreign representatives of Farben, perhaps five or six times, altogether, while I notified him perhaps ten or twelve times. In my opinion, Major Bloch made this request of Farben only for the sake of convenience because it was of course possible for him, since he was in a Reich agency, to obtain information from the passport officials who registered foreigners in Germany where the foreigners were in whom he was interested and how to get in touch with them. It was simply for the sake of convenience that he made this request directly of Farben.

Q.- That is your opinion?

A.- Yes, but my opinion is based on what Major Bloch said when he made his request and, to the best of my recollection, it was only after the outbreak of war while it has been said here that reports were made already before the war to Major Bloch. To the best of my recollection it was only after the outbreak of war that Major Bloch asked for such business mail or business reports to be handed over to him. In this case too, in my opinion, and according to the best of my knowledge at the time, this request was made of Farben by Major Bloch only for the sake of expediency because I knew that all business correspondence coming from abroad went through the German censorship where letters were checked and at that time already I wondered why Major Bloch did not get the necessary reports directly from the censorship offices. I talked to him about the matter once and he said to me, laughingly: "It's simpler this way." From the spring of

1940 on, Major Bloch was more and more insistent in asking for such reports. This can be seen from the Prosecution Document, Exhibit 1927, NI-7626, Book 49, page 141 German text. That is my letter to Mr. von Schnitzler of 30 March 1940. The situation was as follows. Shortly before this letter was written, Major Bloch called me to a conference. Major Bloch told me that the counter-intelligence department of the OKW (Abwehr) had been reproached by some of the highest authorities in Germany - he mentioned Goering - because the economic intelligence service was inadequate and the counter-intelligence (Abwehr) went to all the large enterprises in Germany with the request to gain insight into their current foreign correspondence. I was told at the time that if business did not comply with this request of the Wehrmacht, Goering intended to issue an order to all economic enterprises in Germany to demand that all foreign mail still coming to Germany be turned in. Major Bloch, in answer to my question as to what I could do, advised me that I inform Farben about this proposed order which Goering was going to issue. I talked to Dr. Krueger about it and Dr. Krueger advised me to give this information to Mr. von Schnitzler in Frankfurt as the head of the Commercial Committee. That can be seen from this letter, page 3 of the document where it says, and I quote: "If necessary from these points of view of the state the highest authorities may make strict demands for cooperation. I know that many firms have already submitted to this and that the authorities are particularly satisfied about the assistance given by some economic enterprises. It is all the more noticeable that we," that means Farben, "in the above-mentioned cases have not complied with any of the requests which have reached us." The special wish expressed by Major Bloch at the time, aside from the making available of foreign correspondence, was that Farben should put counter-intelligence people in its foreign agencies. Farben always refused this suggestion and, in this case, it was definitely turned down again.

Q.- Mr. von der Heyde, I should like to be more concrete. According to this document, if I have understood you correctly, up to that time nothing had been done to this end, is that right?

A.- Yes, that is right. That is quite obvious from the letter and that is as I remember it too.

Q.- Major Bloch asked you to do something to this end?

A.- Yes.

Q.- And the consequence was this letter?

A.- Yes.

Q.- And when did all this happen?

A.- On 30 March 1940.

Q.- After the war started?

A.- Yes.

Q.- Now, Exhibit 1904 also deals with that same sort of report, is that right?

A.- Yes, Exhibit 1904 offered during the cross-examination of Dr. Schneider, deals with the meeting of the Abwehrbeauftragten under the chairmanship of Office A on 2 May 1941. While the first meeting, on 29 November 1940, was called by Abwehr III, this meeting in May 1941 was called by Abwehr I VI, Major Bloch, because up to that time, the spring of 1941, Major Bloch was still dissatisfied that Farben had not given any assistance in the economic intelligence service. A study of this document shows clearly that on all points we are dealing with instructions and requests of the counter-intelligence department, Abwehr, — never a question of the initiative of Farben. They were claims of the counter intelligence which were presented to Farben and which were in the future to be complied with.

Q.- And where did you get your directives?

A.- Here again, as at the first meeting in November 1940, I received the directives from Major Bloch and the sentence which Mr. Sprecher quoted

to Dr. Schneider in cross-examination has remained in my memory from that time as the content of an order issued by the OKW counter-intelligence department (Abwehr). This sentence reads, and I quote on page 2 of the document, "No trips abroad, no stay abroad, no visit from abroad, no report from abroad, no exchange of information or experience with foreign countries, without considering whether Counter-Intelligence Department I W and its branch offices would be interested." At that time the OKW Counter Intelligence Department intended to set up the economic intelligence service in Germany or to intensify it and these directives were aimed at the German economic enterprises in order to get them to cooperate.

Q.- Mr. von der Heyde, you were not directly concerned with these things, I believe, because at that time you were already in the Wehrmacht. Is that right?

A.- Yes, on 30 March 1940, when I wrote the letter to Mr. von Schnitzler I was not in the Wehrmacht yet. But as far as this meeting of the Abwehrbeauftragten is concerned in May 1941, I attended as a soldier with the Armament Inspector in Berlin. I was given leave for this one day.

Q.- From the time you were drafted until 1941 did this happen frequently? Can you tell us about how often you got leave.

A.- I can not give you the number of cases exactly. But as the documents here show, in the time after the outbreak of the war I reported seven times at meetings of the commercial committee about deferments. Then I attended these two meetings of the Abwehrbeauftragten and perhaps once or twice. Farben asked me to help out. One document has refreshed my memory in this connection. That is Exhibit 1176, NI-1334, Book 63, German page 40. That is a record of a mail conference, Number 254, of Berlin NW-7, of 7 July 1941. At this mail conference personnel suggestions for Russia were discussed. Schiller, Kersten and von der Heyde were asked to draw up a list. I can remember that Dr. Ignier said to me at the time that the Ministry of Economics wanted Farben to name some experts who might be made available

for economic questions in Russia. At the same time Farben was asked to indicate what rank these men should receive as administrative officials of the Wehrmacht. Dr. Ilgner asked me to attend this one mail conference in order to give my experiences in the Wehrmacht with respect to the rank to be requested for these NW-7 employees.

Q.- Now, Mr. von der Heyde, you mentioned that after the out break of the war, you were called upon to attend meetings of the commercial committee about seven times, is that right?

A.- Yes.

Q.- About how many times was that after you were in the Wehrmacht?

A.- Seven times after I was in the Wehrmacht. After the outbreak of war, as far as I know from the documents, it would be about twelve times.

Q.- And what was the connection?

A.- Just as the first time before the outbreak of war Dr. Krueger took me to these KA meetings, and before they began the agenda I reported on the M question -- that meant deferments. I reported on the experiences which we had had in Berlin with the procedure of deferments and at the same time I announced what I had learned through my connection with the Berlin Wehrmacht offices about future intentions of the Wehrmacht authorities regarding the draft. Naturally as I was in uniform I had even better opportunities to obtain information from the Wehrmacht authorities than before, because I was more or less considered a member of the Wehrmacht and could talk to the specialists about the question of deferment and that was of course very valuable for Farben, in order to have essential personnel exempted from military service.

Q.- Now, when did this extra work of yours stop after you were called up?

A.- I already said that until about the middle of 1941 I still worked in Office A occasionally in the evening in order to help my successor

Ruediger to get acquainted with the work. In addition to that I reported to the KA meetings about deferments until about February 1942 -- that means that I spent half a day, or if the KA meeting was in Frankfurt, a whole day, during which time I was on leave from the Wehrmacht, and in the third place I attended these two meetings of the Abwehrbeauftragten called by Office A. In February 1942 my association with Farben finally stopped completely.

Q. Then you were transferred to other agencies of the Wehrmacht and had no opportunity to get leave from this service even for a day, is that right?

A. Yes, that is right. I was originally drafted in the reserve Inspectorate of Berlin. I was a member of Infantry Regiment 9, in Potsdam but I was not called up for service with my regiment because, as a result of a nerve inflammation, sciatica, I was not able to serve at the front. From the Reserve Inspectorate at Berlin I was transferred in 1941 to the Armament Inspectorate at Berlin. I worked for a short time in an armament detail in Berlin, and at the beginning of '42 as a first lieutenant was sent to the OKW, the WI Rue Amt, the Economic Armament Office, also in Berlin. I was in the OKW WI Rue Amt, then in the Military Economic Department as first lieutenant. I was in charge of the Southeast European countries. That means the Military Economic Department of the OKW WI Rue Amt was the central office for the so-called military-economic officers whom the Wehrmacht appointed in the occupied countries. This central office in Berlin with its military-economic officers worked on the economic questions of the occupied countries. There fore, it was divided into individual fields, and my field was the Southeast, or the Balkans.

Q. Was any training necessary for that work, or not?

A. No, the necessary training was to be familiar with economic questions.

Q. Did you have anything special to do with agriculture, or what type of work was it?

A. The economy of the southeast European countries is largely built up on a basis of agriculture, but my work was to supply the industries of these countries with the necessary raw materials which were not available there.

Q. Did you remain in Berlin, or was your office transferred?

A. The WI Rue Amt remained in Berlin until the second half of 1943, and then, because the building was bombed out, it was moved to Frankfurt on the Oder. The members of the OKW WI Rue Amt were then billeted in the

Ziethen Kaserne in Frankfurt on the Oder.

Q. I am asking you about this so carefully because the Prosecution may doubt whether you actually were employed as an officer and a soldier. Did you personally have any doubts about it?

A. No, neither I nor my superior. My superior was my superior over one hundred per cent of my work, and I do not believe that my superior, Colonel Treutsch, would have given me any extended leave for civilian leave work even if I had wanted him to do so.

Q. Now, I should like to ask you a few formal questions. Were you in the Central Committee of Farben?

A. No.

Q. Were you in the Vorstand of Farben?

A. No.

Q. Were you in the TKA of Farben?

A. No.

Q. Were you in the Commercial Committee of Farben?

A. No.

Q. Were you in any Committee?

A. No.

Q. Well, what were you in Farben?

A. As I said before, I was Handlungsbevollmächtigter; I was an employee who had the authority to sign.

DR. HOFFMANN (COUNSEL FOR DEFENDANT VON DER HEYDE): Your Honors, I told Mr. Sprecher that I would need more time, but I have no more questions.

THE PRESIDENT: We will donate the remainder of your time to Mr. Sprecher, I assume.

Anything else from other Defense counsel? Then the Prosecution may cross-examine the witness.

MR. SPEICHER: We had really been relying on Dr. Hoffmann's statement that we certainly wouldn't have to begin until tomorrow morning. I will have to ask your Honors indulgence if I am a bit rambling because I haven't

had any time to organize.

DR. HOFFMANN: Mr. Sprecher is quite right, but it didn't take as long as I thought it would.

CROSS EXAMINATION

ERICH VON DER HEYDE, Resumed

BY MR. SPEECHER:

Q. What was Colonel Treutsch's position in the Wehrmacht?

A. Colonel Treutsch was major in 1941. He was a Group Leader in the Military-Economic Department of the 'I Rue Ant.

Q. Did you remain under Colonel Treutsch from 1941 until 1945?

A. In 1941, at the end of the year, until the end of the war.

Q. Now, in connection with personnel from Farben which was to be used in the occupied countries, did you only have to do with that matter with respect to employees from NW-7?

A. I had nothing to do with employees of NW-7. I had to handle the military-economic officers sent to the occupied countries by the Wehrmacht. They were not employees of Farben.

Q. Did you participate in any conferences or exchange of correspondence when personnel of Farben was considered for these Wehrmacht jobs in the occupied countries?

A. I did not quite understand the question, Mr. Sprecher--conferences, you said?

Q. Well, you have mentioned that the OKW had military economy offices in the occupied countries. You have mentioned that your field of concentration was the Balkans. You have mentioned that there were representatives in these OKW offices in the occupied countries that had to do with economic and military matters. Now, I am asking you if you participated in the selection by the OKW by making any recommendations or sending any letters or receiving any letters with respect to persons from Farben who were selected for those jobs in military economy offices in the occupied countries?

A. No, Mr. Sorecker, those are two different things. On the one hand, there were the military-economic officers sent by the OKW VI Rue Amt to the occupied countries. And they were the ones that I had something to do with, but I never had anything to do with the employment of Farben members in the southeast. The military-economic officers in the Balkans had nothing to do with Farben. As far as I know, they knew nothing about Farben employees.

Q. Now, did you have anything to do with respect to the placement of personnel in France or in Russia? That is to say, personnel which had to work upon economic-military matters?

A. No, never. The only thing that I had to do in this field I mentioned earlier. From Prosecution Document 1176, that was the Mail Conference in NW 7, where I was asked what rank should be requested for the Farben employees who had been requested by the Ministry of Economics. That was the only time. And there it was only a question of what uniform they were to get.

Q. Now, what was Colonel Becker's position in the Supreme Command of the Wehrmacht?

A. In 1941-42 Colonel Becker was the head of the Military-Economic Department, the superior of Major Freutsch.

Q. Did you already have to work with him in 1940?

A. I believe that in 1940 I came to the VI Rue Amt, as I recall, as the man in charge of deferment for NW-7, especially to have Dr. Krueger deferred. He was a first lieutenant in the OKW VI Rue Amt and he was indispensable for us at the NW-7 and we wanted to have him exempted from military service.

Q Was that the extent of your contact with Colonel Becker at the time, - that is, 1940?

A Yes, to the best of my knowledge, that was all, - personally, that is.

Q Do you recall in 1940 participating in discussions with respect to the selection of men who had previously worked for Farben, who would be appropriate for positions in France, so that the Military Economy of France, or so that the economy of France could be developed appropriately from a military economy standpoint, as far as Germany was concerned?

A I do not remember any such meeting or conference, but if you could show me a document or remind me of it in some other way, - but I don't remember it.

Q Do you recall seeing any report by any Vorstand members who had made trips into the Western occupied countries just after Belgium and Holland and France were overrun in 1940? With respect to recommendations as to what Farben and its people were to go into the western occupied countries in connection with this military economy problems which the Wehrmacht wanted settled?

A I can remember only one case. That was for Mr. von Schnitzler for the Wi Rue Amt to get permission to go to France, but what the purpose of this trip was I do not remember.

Q Now I show you NI 810, which will become Prosecution Exhibit 2140. This contains two letters, both dated the 4th of July, 1940. One is to the High Command, the Military Economy and Armament Office, for the attention of Lt. Colonel Matzky. Colonel Matzky was another group leader under Control Becker in the Military Economic Department. He was on the same level as Major Treutsch. It was a letter following a conference of Mr. von Schnitzler after a trip to Belgium in the Wi Rue Amt, in the course of which he asked permission to undertake another trip to France. In this letter we asked for the support of

W1 Rue Amt for this trip.

Q Now apart from mentioning certain specialized tasks that have to be performed in France, there is a certain reference to certain I.G. gentlemen. Did you have anything to do with selecting those gentlemen who were to be considered for going to France?

A No, as far as I can remember I accompanied Mr. von Schnitzler to this conference as the man officially in the department for Military Economy and I know that Colonel Becker, as it says here, expressed the wish that some specialists, and I quote, "in the upper field of Chemistry might be named who would be suitable or work in the German Control Commissions, for the control of French industry in unoccupied French territory".

Q Doctor, what I am trying to get at is how did you happen to become involved in this thing, just by chance or what position did you have in July, 1940, that got you involved in this thing so that you signed these letters, among other things?

A I have already said that I was in the Referat for Military Economy in the Economic Political Department, and as the Manager of Military Economy, I wrote this letter, together with my superior at the time, Erich Mueller, whom I mentioned earlier. That was the work I did in the WIPO.

Q Now at the time of the second Abwehr Conference which you mentioned in May, 1941, which is referred to in Prosecution Exhibit 1904, which you and Dr. Hoffmann discussed a little while ago, was it customary at that time to refer to you still as being the Chief of the Bureau A in Berlin?

A First of all, Mr. Sprecher, I was not the Chief of the Bureau A. I was in that office as one of the two men, Dr. Dieckmann and I.

Dr. Dieckmann and I.

Q That's right; I didn't mean to indicate anything else, I am sorry.

A And Dr. Dieckmann and I were asked to make the report wanted by counter-intelligence at the meeting on the 2nd of May, '41.

Q Now did you make any recommendations at that meeting as to how these Abwehr directives, - that is from Abwehr I, as contrasted with Abwehr III, - that is with respect to getting intelligence from abroad, - did you make any recommendations as to how that was to be worked out inside of I.G. Farben - at that meeting?

A I have already said that what I told the local Abwehr agents of Farben at this meeting was based on directives of OKW to the Intelligence Major Bloch, I W1, Major Bloch. The basic instructions that were given me, I passed on in essential to the local Farben men in terms that they could understand, that is, in I.G. Farben.

Q Well, in terms that they could understand; did you make suggestions to them as to how this would work out in Farben in view of Farben's large number of foreign representatives?

A No, I did not make any suggestions to strengthen the collaboration. On the contrary, the instruction - which the OKW Counter Intelligence gave us, I always, so far as I can remember, changed or minimized their effect according to the prevailing feeling in Farben, as I knew it. I knew that all of the heads of the Sales Combines, and my superior, Dr. Ilgner, were very unwilling to cooperate with Abwehr I, because this could only interfere with normal Farben business, and I considered this when dealing with the instructions of Counter-Intelligence.

Q Did you recommend at that meeting that all Farben employees who went abroad should report directly to Bureau A in Berlin?

A Who went abroad; I do not understand; after they had been abroad?

Q That's right.

A No. Originally the Counter Intelligence had requested that after every trip abroad a report should be made to Counter-Intelligence. I believe that this question was once discussed in the KA, and we wanted to handle this question centrally in Farben as far as possible, so that there would be one office which would be able to survey the whole thing and handle it, but in practice, as I recall, all of these things were later decentralized and were handled by the local Administration in the individual plants and offices.

Q Didn't the OKW agree that that would have to be the practice because questions of secrecy were involved?

A No, that was no consideration, whether the questions were secret or not; that was of no significance in dealing with Farben because every Abwehrbeauftragte was obligated to secrecy. I do not see any connection there.

Q Now did the question of dealings with the AO--that is the foreign organization of the Nazi Party -- come up in this meeting of Abwehr representatives in 1941?

A I just heard AO. Is that what you said?

Q Yes.

A No, I can't remember that anything was said about the AO at this meeting.

Q Now I show you NI-14312 which will become Prosecution Exhibit 2141. Now this is a file memo which you will note was written by one Riess, R-I-E-S-S, who attended this conference from the Wolfen factory, and there's the initial "G," and the defendant Gajewski's office stands at the top of your first page. Now in this report by Riess, you will note that you are referred to in the first paragraph, that you, coming from Office A of Farnen in Berlin, should receive these reports. Did Mr. Riess make a mistake in that connection, or had you lost your connection with Office A at that time?

A Mr. Sprecher, may I ask for another copy? I can't read this one.

Q Certainly. We will give you the best copy we can find here.

A Mr. Sprecher, first of all I must point out that this is a file note of the Abwehroauftragten of Wolfen -- at least I believe he was Abwehroauftragten -- a Mr. Riess, on the 4th of May 1941 about the conference of the 2nd of May 1941. This is the first time that I have ever seen this memorandum. He must have made a basic mistake. You are asking about the AO, but here it says "Den AO"; that means the Abwehr Offizier -- the counter-intelligence officer, and not the "Die AO" -- the foreign organization officer.

Q That satisfies me. I wanted to make that point. I agree with you. Go ahead.

A Besides, this file note says exactly what I said before. It says here, and I quote, "Von der Heyde suggests that Department A also be notified so that Department A could participate if necessary. Major Bloch and the counter-intelligence officers present were against this centralization." Then further down: "The question of centralization as von der Heyde also proposed with regard to his further points was on principle not considered desirable either by the military authorities or by the counter-intelligence officer of the I.G." That is exactly what I said basically, and Dr. Schneider wanted this too and most of his colleagues in the Vorstand. These were questions of whether trips of Farben people abroad should be handled by a central agency so that there would be one office in charge of these things, that is to minimize the difficulties. The counter-intelligence officers and the local counter-intelligence officials of Farben were against this centralization and so it remained. The matter continued to be handled in a decentralized way.

Q If the members of the Tribunal would look at the document where it does say foreign organization with a capital "A" and a capital "O", that is a mistake in the translation. The translator took the usual translation of AO--Auslandsorganisation -- but instead in this letter by Mr. Riess we are certainly willing to agree that AO was used as Abwehr Offizier -- or Abwehr Officer -- and thank you for your help in correcting that.

Now, did you wear the SS uniform at any time after the first of September 1939?

A I believe that I can say "no" with a clear conscience. I cannot remember any single instance.

Q Now that documents which were introduced, I don't happen to have them here because I hadn't expected to examine you

now, but I think we can get along without them. The documents which we introduced with respect to the SS Central Office records considering your membership in the SS made no mention of Reiter-SS. Is it your position that after 1936, when you came to Berlin, that you did not become an honorary member of the SS in addition to being a member of the Reiter-SS?

A As I heard the translation, you asked whether I was an honorary member of the SS? No. Mr. Sprecher, the situation was like this. I was a member of the Cavalry Detachment in Mannheim, and was on leave in Berlin. In Berlin I rode repeatedly as a guest in the Cavalry Detachments in Berlin, Zehlendorf, Wannsee, etc., and I always introduced myself with these groups as a comrade -- a member of the cavalry unit in Mannheim. The activity that I mentioned this morning for the SD Main Office was something independent of that. It involved merely giving information at irregular intervals to the office in the Wilhelmsstrasse.

Q You didn't receive a rank in the SS, an officer's rank, until you were in Berlin, is that right?

A No. - I was in Reitersturm 7 in Mannheim where I was Hauptscharfuehrer. It was not --

Q What is the equivalent rank of Hauptscharfuehrer?

A Hauptscharfuehrer would be in the Wehrmacht a sergeant, a non-commissioned officer.

Q A sergeant. Did you visit Ohlendorf, or did you talk with Otto Ohlendorf after 1 September 1939?

A As I remember, after the first of September 1939, Ohlendorf was not in the SD Main Office. In 1939, he went with Heller to the Reich Group Trade, and was not in

Wilhelmstrasse in the SD Main Office. That is how I remember it. As far as I know today, I never saw him after the first of September 1939 — Oh yes, once in 1944. Ohlendorf was in Frankfurt on the Oder and made a speech to the officers of the W1 Rue Amt about economic questions. That was the last time that I saw him.

Q What kind of economic questions did he discuss?

A As I remember, he spoke about the general German economic policy, foreign trade, export, obtaining foreign currency, and so forth. As far as I know, he was Minister-Indirektor in the Ministry of Economics at that time.

THE PRESIDENT: How much time will you need, Mr. Sprecher?

MR. SPRECHER: I think we might go over until tomorrow so that I may have the chance to run through this.

THE PRESIDENT: According to my calculations, you should get through in 15 minutes.

MR. SPRECHER: I am sure I will do that.

THE PRESIDENT: Very well. The Tribunal will rise until nine o'clock tomorrow morning.

(The Tribunal adjourned until 27 April 1948, 0900 hours.)

CERTIFICATE OF COMMISSIONER

Under directives of United States Military Tribunal No. 6, testimony of witnesses listed below was required to be taken before the undersigned Commissioner. Pursuant thereto the said Commissioner has conducted hearings at which the following witnesses have fully testified:

<u>Date</u>	<u>Name of Witness</u>	<u>Official Transcript</u>
8 April 1948	Walter Warlimont	10875-10907
9 April 1948	Kurt Krueger	11128-11163
12 April 1948	Karl Weber	11165-11175
12 April 1948	Paula Ester	11177-11199
13 April 1948	Ernst Struss	11293-11338
14 April 1948 &	Christian Zehn	11444-11490
15 April 1948	" "	11587-11612
16 April 1948	Bernhard Schoener	11706-11723
19 April 1948	Adalbert Feindal	11827-11841
20 April 1948	Josef Grobel	11842-11860
20 April 1948	Gustav Pistor	11861-11878
21 April 1948	Emil de Haas	12098-12128
21 April 1948	Heinrich Schuh	12129-12140
23 April 1948 &	Heinrich Schindler	12337-12370
28 April 1948	" "	12707-12777
→ 26 April 1948	Walter Kikuth	12461-12498
26 April 1948	Hans Souer	12500-12512
27 April 1948	Wilhelm Duellberg	12598-12621
29 April 1948	Theo Goldschmidt	12871-12909
29 April 1948 &	Anton Reithinger	12910-12953
30 April 1948	" "	13075-13092
29 April 1948 &	Rudolf von Epretty	12954-12960
30 April 1948	" "	13065-13075
30 April 1948	Rudolf Schmidt	13093-13133
5 May 1948 &	" "	13620-13629
6 May 1948	" "	13651-13719
3 May 1948	Wolfgang Alt	13246-13269
3 May 1948	Carl Gadow	13271-13291
3 May 1948 &	Kurt Hartmann	13292-13316
4 May 1948	" "	13412-13450
4 May 1948	Fritz Dien	13450-13460
4 May 1948	Kurt Siefeld	13461-13479
4 May 1948	Adolf Taub	13480-13489
5 May 1948	Ernst Struss (for Pros.)	13566-13619
6 May 1948 &	Werner Schnitz	13720-13735
7 May 1948	" "	13861-13891
10 May 1948	Max Winkler	14173-14181
10 May 1948	Fritz Hirsch	14195-14209
10 May 1948	Ernst Kreschewski	14210-14220
10 May 1948 &	Franz Fuerstenberg	14221-14245
11 May 1948	" "	14377-14384
11 May 1948	Heinz Savoleberg	14387-14424
11 May 1948	Karl Hunscheidt	14425-14439
11 May 1948	Reinhold	14440-14455
10 May 1948	Friedrich Seicher	14482-14494


During the said proceedings the following exhibits have been offered in evidence:

PROSECUTION EXHIBITS

<u>Exhibit</u>	<u>NI No.</u>	<u>Official Transcript</u>
2302	PS 2353 C	10899
2303	L79	10904
2304	11036	11145
2305	11034	11182
2306	15070	11183
2307	11236	11302
2309	11232	11312
2311	15062	11327
2312	15063	11330
2314	11257	11468
2315	13524	11473
2316	11256	11473
2317	11251	11485
2318	11252	11476
2319	11014	11482
2320	11039	11834
2321	13084	11848
2328	10532	12615
2329	10528	12616
2323	10907	12706
2330	13525	12753
2331	15021	12878
2332	3763	12915
2333	15115	12921
2334	15116	12923
2335	8647	12927
2336	15132	12933
2337	1514	12942
2338	11098	13106
2339	13534	13111
2340	15215	13126
2341	15260	13620
2342	15173	13286
2345	7637	13728
2346	7666	13730
2352	15290	14382
2353	15296	14392

I, the undersigned Commissioner, do hereby certify that the aforesaid official transcript pages comprise a full, true and correct report of such proceedings, testimony and evidence heard and recorded therein before me.

Dated at Nurnberg, Germany, May 28, 1948.


 JOHNSON T. CRAWFORD
 Commissioner of Tribunal No. 6

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Court VI Case VI Commission

Official Transcript of Hearing before a Commissioner for
Military Tribunal VI, Case VI, in the matter of the
United States of America against Karl Krauch et al,
defendants, sitting at Nuernberg, Germany, on 26 April
1948, Commissioner Johnson T. Crawford presiding.

THE MARSHAL: The Commission for Tribunal VI is now in session.

DR. MUELLER: Mr. Commissioner, I may say that the defense was informed
on time about the cross examination today. This is also true for the
cross examination which took place last week and the defense was also
notified in time about the cross examination of the witness Sauer, which
will take place this afternoon.

DR. NEULKE: Walte for Boerlein. Your Honor, in the case for
Professor Boerlein, I make available the witness Professor Kikuth.
Professor Kikuth has made out several affidavits. The Prosecution has
expressed the desire to cross examine the witness on the statements he
has made in these affidavits. Please swear the witness in, so that I
may interrogate him.

WALTER KIKUTH, a witness, took the stand and testified as follows:

THE COMMISSIONER: The witness will raise his right hand and take
the oath. "I swear by God, the Almighty and Omniscient, that I will
speak the pure truth, and will omit and add nothing."

(The witness repeated the oath.)

THE COMMISSIONER: The witness will be seated.

DR. NEULKE: Witness, I call to your attention the fact that it is
proper if you always pause before you answer, my question because it
is necessary to get correct translation for the record. If in the course
of examination you use difficult expressions of a chemical or proper
names, please spell those words.



DIRECT EXAMINATION

BY DR. NELTE:

Q. For the record, please give me your full name.

A. Walter Kikuth.

Q. When were you born?

A. 21 December 1896.

Q. Where were you born?

A. In Riga.

Q. You are not waiting sufficiently long. Where is your residence now?

A. In Wuppertal-Vohwinkel.

Q. What positions do you hold at the moment?

A. Director of the Chemical Therapeutic Institute of the Dyes Factory Bayer and simultaneously temporary director of the Hygienic Institute of the Medical Academy in Duesseldorf.

Q. Are you a professor of medicine?

A. Yes.

Q. Are you also a member of important foreign medical associations?

A. Yes.

Q. Which ones, please?

A. I am a member of the Royal Society of Medicine, of the Royal Society of Tropical Medicine, of the Royal Tropical Medicine Society of Belgium, and of the Royal Association of Doctors in Barcelona.

Q. Have you received important distinctions in the medical field?

A. I received the Golden Ehrlich Medal in 1934.

Q. Have you been politically examined?

A. Yes.

Q. With what results?

A. In the main trial in Duesseldorf, I was exonerated.

Q. And thereupon you continued in your position in the Medical Academy in Duesseldorf, is that right?

A. Yes.

Q. Now, Professor, you have made out a number of affidavits, alone and in connection with the testimony of Professor Wiese and Domagk. Before you took the witness stand, did you look at these affidavits once again?

A. Yes.

Q. Do you have anything to add to what you have said or do you have to correct anything?

A. No.

DR. NELTE: Then for the time being I have no further questions to the witness.

THE COMMISSIONER: The prosecution will proceed with the examination.

CROSS EXAMINATION

BY MR. MINSKOFF:

Q. Mr. Witness, was there a particular day set aside during which you reported to the defendant Hoerlein on your progress with different preparations?

A. I didn't understand the question.

Q. In your work at Elberfeld, was there one particular day during the week that was set aside for the purpose of reporting to the defendant Hoerlein?

A. In earlier days.

Q. Was that regularly done each week during the war?

A. What do you mean took place?

MR. MINSKOFF: Something is wrong with the sound system.

(Interpreter tests system)

MR. MINSKOFF: Right. Thank you very much. Just so we get this clear for the record this time --

BY MR. MINSKOFF:

Q. Mr. Witness, on Saturdays were there meetings held in which you reported on your results of the progress of various preparations, to the defendant Hoerlein?

A. Well, such conferences took place on Saturday.

Q. Now, your own sphere of work, Mr. Witness, was that of the discovery and development of new cures?

A. Yes.

Q. Will you tell the court how, in practice, you carried out that responsibility?

A. If a new medicine was discovered which was to serve doctors in their treatment, then the so-called animal experiments were first conducted in my laboratory. That is to say, the animals were artificially injected with infectious bacilli and after that were treated with the new chemicals which were made available to us by the chemists. If an effect against a certain disease was discovered by us, contact was made with the pharmacologists and it was their job to test the medicine which I or someone else found to be an effective medicine and to see whether it was compatible.

Q. Mr. Witness, the pharmacologist merely tested whether a particular preparation was compatible or not; that is true, is it not?

A. I don't understand.

Q. "Verträglichkeit" in German, "Verträglichkeit." The pharmacologist's job was to test the compatibility of a particular product, its digestibility; is that right?

A. Yes, he was supposed to examine the compatibility of the substance.

Q. Now, it was your job, was it not, to test the efficacy of the preparation? Isn't that right?

A. It was my job to find out the efficacy of the product in the animal experiment.

Q. Yes. Now, Mr. Witness, will you tell the court the next step after you have found that the preparation does work on animals?

A. After the preparation was found to be effective by me, and after it had been thoroughly investigated as far as its compatibility is concerned, a so-called expose was made together with the pharmacologists, and this expose was discussed in a larger circle of chemists and physicians.

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That practically completed our job in Elberfeld. This expose was passed on to Leverkusen.

Q. Now, before an expose on an Elberfeld preparation was sent to Leverkusen, who at Elberfeld had to approve that expose?

A. The expose was discussed in the so-called "Saturday conferences," so that everyone of those present could give his opinion about it. As far as the content of the expose is concerned I, on the one hand, and the pharmacologists on the other hand, were responsible; and as far as the chemical representation is concerned the chemist who created the preparation was responsible for that.

Q. Mr. Witness, at these Saturday conferences who was chairman?

A. Professor Hoerlein was the chairman at these Saturday conferences.

Q. Mr. witness, will you tell the Court whether the expose could be sent on to Leverkusen from Elberfeld without the approval of the defendant Hoerlein.

A. If no objections were raised against the expose the author of the expose usually sent it to Leverkusen with an accompanying note.

Q. I'm afraid you didn't fully understand the question. The question was simply this: Could an expose in the practice as you know it at Elberfeld go out from Elberfeld to Leverkusen without the approval of the defendant Hoerlein?

A. No.

Q. Thank you. Now, after the expose went to Leverkusen it went to Dr. Martens did it not?

A. It went to Dr. Martens at Leverkusen, yes.

Q. And was it then Dr. Martens' function to pass it on to various places where it could be tested for its efficacy?

A. It was the job of Dr. Martens to find those physicians who were responsible for the therapeutic treatment with these new preparations.

Q. Now, Mr. witness, is it or is it now true that one of Dr. Martens' duties was to see to it that the reports which he received on the results of the tests were forwarded to the scientists for their critical evaluation?

A. The results which Dr. Martens received had to be sent on to us by him of course.

Q. And who at Elberfeld received these reports and evaluated them?

A. If it was a report which had a preparation as its subject-matter which I had recognized as being effective, then that, of course, came to me automatically.

Q. Now, Mr. witness, B-1034 is an Elberfeldtproduct is it not?

A. Yes.

Q. Do you recall, Mr. witness, whether you received the first report on the clinical tests of B-1034 in connection with typhus?

A. B-1034 was found by me. This is a preparation from the Sulfonamide series which is distinguished from the other sulfonamides by the fact that its compatibility was especially good, and that beyond that, in the so-called "virus tests," — that is to say, in infections of a special nature; in contrast to the other sulfonamides — was found to be especially effective. On the other hand it was known at that time that sulfonamides had a certain effect in trachoma, the Egyptian eye disease; but since this was a chronic disease, the sulfonamides had to be administered for a long period of time, which now and then led to its incompatibility.

Q. Mr. witness, may I repeat the original question before we get too far off?

The original question merely was: In connection with typhus, do you recall whether you received the first reports on the clinical tests of B-1034?

A. Yes, I'm almost at the end of my statement. On the basis of this very fine efficacy — that is, of the sulfonamides in the case of trachoma other physicians also used it in the case of typhus, and as for the first reports about this preparation in the case of typhus, I heard personally from Professor Seiffert in Leipzig, and together with Dr. Koenig, I went to Leipzig in order to convince myself of the results right there.

DR. NEATE: Your Honor, I would merely like to ask for a clarification so that there won't be any further confusion. The witness spoke of "Typhus", and I ask the Prosecutor whether "Typhus" is meant here in the English to be typhoid or whether he means typhus (Fleckfieber).

By "Typhus" in German we also mean "typhoid" and I don't know whether the witness wants to say that B-1034 was used in the treatment of stomach typhoid or of typhus.

MR. MINSKOFF: To clarify the record, when we speak of "typhus" we intend the German "Fleckfieber," not "Typhus". The translation of "typhus" is "Fleckfieber."

BY MR. MINSKOFF:

Q. Now, Mr. witness, have you understood the question?

A. I meant it that way. I interpreted the English "typhus" as German "Fleckfieber."

Q. Now, the question, if I may repeat it, Mr. witness, was: Do you recall receiving the first reports on the clinical tests of B-1034 in cases of typhus or Flickfieber?

A. Well, I already said that I went to Leipzig in order to convince myself of the results right there in Leverkusen.

Q. Approximately when was that, Mr. witness?

A. That was in the first winter of the war against Russia.

Q. That's the winter of 1941-42?

A. Yes.

Q. Now, do you recall in July 1942 receiving the report on three case histories from the Russian doctor Kosetzky?

A. I cannot remember that.

Q. Do you recall, Mr. witness, any conversations or discussions held with Luecker and Kownig of Leverkusen concerning the fact that the preparation of B-1034 was so poor as a means for fighting typhus that it was not intended to be put on the open market?

A. The judgments about the compatibility of B-1034 were varied. There were physicians who thought that it was difficult to use it in case of typhus because those patients had a very dry mouth when they had fever and that they could swallow the preparation with only great difficulty; and it happened now and then that the patients concerned vomited it.

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Q. Now, Mr. witness, I was not speaking of the digestibility or the compatibility of the preparation in typhus cases. I was speaking of the finding in July 1942 that its therapeutic effect was so weak that it was out of the question to use it for typhus.

A. That's true.

Q. Then, just so I have the record clear, you knew in July 1942 that the therapeutic effect of typhus was too weak to justify — Pardon me of B-1034 as a means of curing typhus was too weak to justify its use on the market?

A. Yes, because the results at least were too contradictory. There were some results which were good like those of Professor Seiffert, but there were other physicians who again found that it was not effective enough.

Q. Yes, but the conclusion which was drawn by the report of your own Leverkusen people was, was it not, that it was too weak a cure to be useful? Now, is that true or isn't it?

A. Well, in order to pass a final judgment about it such experiences must be collected over a number of years. It can happen that a preparation is not effective in this particular form, but if it is used in some different form it may after all be effective.

Q. Now, Mr. witness, at this same time, in July 1942, do you recall that Dr. Vetter was also experimenting with B-1034 at Auschwitz?

A. What do you mean by "experimenting"?

Q. He was testing the efficacy of B-1034 as a cure for typhus.

A. Certainly I was informed that Dr. Vetter made such experiments, with the preparation B-1034.

Q. How would you be informed of that?

DR. NELTE: One moment please.

Your Honor, for the record I merely would like to say that the Interpreter has translated "Versuche" as "experiments." I ask the Interpreter to interpret in the manner in which we consider it correct — either as "tests" or as "trial under medical care."

MR. MINSKOFF: If your Honor please, the Prosecution strongly objects to telling the Interpreters how to interpret from English into German. As a matter of fact the Prosecution has shown Dr. Nelte an exhibit which it puts in its rebuttal book, where the I.G. Farben dictionary has

"Versuche" translated by the word "experiment". Now, we don't lay any great emphasis on the meaning of the word "experiment", but the question that we asked the witness was perfectly clear, and his answer was perfectly clear. Now, there was no confusion until the objection was made.

DR. NELTE: Your Honor, please ask the Prosecutor whether he is going to introduce now the rebuttal document NI-14244 or not. If he does present it here I shall immediately give the reason for my objection.

THE COMMISSIONER: You may proceed.

MR. MINSKOFF: I'm not sure that there's anything before the Court on that. If Dr. Nelte thinks it will be helpful we'll put the document in. I don't think we need it at this point; we have it as rebuttal document. The objection we were making now was that the translation was perfectly proper without the help of counsel.

THE COMMISSIONER: You don't wish to introduce it, and if Dr. Nelte wants it he may introduce it.

THE COURT INTERPRETER: Your Honor, will you please talk into the microphone?

THE COMMISSIONER: I say if the Prosecution does not introduce the document in question, then if Dr. Nelte wishes he may introduce it.

DR. NELTE: Your Honor, then, I assume that the Prosecution will not introduce it at the moment. But then it is not admissible that they refer to this document.

THE COMMISSIONER: Very well. Now when you take the witness you may question him on it. When the defense counsel takes the witness on his examination why he may ask him any questions and introduce the document if he cares to.

MR. MINSKOFF: Thank you, Sir.

BY MR. MINSKOFF:

Q. Now, the question that we last left off at Mr. witness, was: How -- in what form -- did you receive reports as to the activities of Dr. Vetter in Auschwitz, in connection with the use of B-1034?

A. Since I saw Dr. Koenig almost every week he reported to me about it orally; but I cannot remember that I received written reports from him about it.

Q. Mr. witness, did you ever see — I'll show you NI-12443, which is Prosecution Exhibit 1696, and ask you: Did you ever see that document before? I refer your particular attention, Mr. witness, to the last paragraph where it is stated:

"It is not intended to publish anything on the subject of the preparation B-1034, as the preparation will certainly not be put on the market as a remedy for typhus. For such a purpose the curative effects are, beyond question, too weak."

A. Well, I probably did not read this letter. At least I do not remember it.

Q. Mr. witness, you've testified, in any event, that you did know that the preparation was too weak to be put on the market. Now, may I ask this question: Did you know whether Dr. Vetter, who was testing this preparation in Auschwitz at that time, was informed of the fact that you at Leverkusen and Elberfeld thought the product too weak to be used on the market.

A. I didn't quite get the question.

Q. From the letter you just saw and from your own testimony it is clear that you all knew the product was too weak as a cure to have any real curative effect in cases of typhus. Now, the question I am asking is: Did you inform Dr. Vetter — did you impart that knowledge to him — that it was too weak to be of great use in typhus?

A. I never had any contact with Dr. Vetter. I neither received anything from him, nor did I ever write anything to him.

Q. As responsible doctor, weren't you at all interested in whether persons who were testing your product were informed as to the latest results and latest information on that product?

A. That was not my job at all. That was the job of Leverkusen. If that had been my job, then I wouldn't have had to do anything else all day long but write letters. In order to maintain contact with foreign doctors, Leverkusen with its scientific department was kept.

Q. Witness, just a little while ago you testified that you went to Leipzig to find out for yourself, personally, the results of the testing of your product.

A. Yes, but this was a special occasion of great significance because I had heard that a preparation recommended by me for use in cases of trachoma was also alleged to be effective in cases of typhus. This claim was scientifically so new that for merely scientific reasons I wanted to convince myself of this scientific fact.

Q. Now, Mr. witness, who would make a decision that a particular product like B-1034 had insufficient therapeutic value to justify its use on the market?

A. The decision for that as to whether a preparation was to be put on the market or not was, first of all, made by Leverkusen on the basis of reports which had been received.

Q. Now Mr. witness, who, at Leverkusen, was competent to make a decision that the particular product was so proved that it was fit to be put on the market?

A. That was the job of Dr. Martens and his staff.

Q. Now, is it your testimony that Dr. Martens, without approval of anybody else, had the authority to decide that a particular preparation like B-1034 had been sufficiently tested to warrant its sale to the public on the open market? Is that your testimony?

A. Dr. Martens probably did not make such a decision by himself. In such a case he would, of course, consult the authorities who, on the one hand, were able to report critically about the results or who were

interested in the preparation for one reason or another.

Q. Now, is it not a fact, Mr. witness, that before the preparation could go out to the public, Dr. Martens would require Dr. Hoarlein's approval at the main conference meeting?

A. I never attended the main conference sessions. I merely knew that the decision about putting the preparation on the market, first of all, was in the hands of Dr. Martens, because Dr. Martens was that man who collected the results and who considered it his job to either accept or reject the preparations, according to the results of the experiments.

Q. Perhaps I didn't make my question clear. I think that we have agreed that in the first instance it would be Dr. Martens who would first suggested that a product be put on the market since he would have the results beforehand. But the question I am asking is, who makes the final decision on what goes out to the public?

A. I don't know who made the final decision, but certainly Dr. Martens was the man responsible for putting the preparation on the market.

Q. Now, Mr. witness, since B-1034 was your product, may I ask, do you know who it was that took the initiative in causing the testing of B-1034 to take place on a larger scale in the concentration camp Auschwitz?

A. I don't know. At any rate, we did not make that suggestion.

Q. Mr. witness, did you ever have occasion to discuss the relative merits of acridin-3582 and B-1034 as treatments for typhus?

A. Would you please repeat the question.

Q. Let me probably make it more specific for you. During 1942 when the question of typhus was rather important in Germany and you yourself had a preparation which you wanted to test as a cure for typhus, did you then discuss the relative value of the preparation acridin-3582 as compared with B-1034 as a means for treating typhus?

A. No. I had no such possibility.

Q. Is it your testimony, if so, I want to make the record completely clear on this point, that in developing a cure for typhus you took no

interest in the other cures developed in Farben for typhus?

A. When I developed my experiments against typhus on the basis of the clinical results, I of course examined B-1034 in my experiment. I found it to be completely ineffective. At the same time at my request I received nitro-acridin from Hoechst and I also tested that. In the case of nitro-acridin in contrast with B-1034 I was able to find a certain effectiveness.

Q. Mr. witness, in addition to your own tests, did Dr. Martens, who handled the testing of both preparations, furnish you with reports as to the results he received?

A. Nitro-acridin was a Hoechst preparation and that's why, in Elberfeld, we didn't get the experimental results of a Hoechst preparation. Only now and then, through conversations, it was mentioned that Hoechst was clinically testing a certain preparation which showed a certain efficacy in cases of typhus.

Q. Now, Mr. witness, do you remember whether you were informed, in February 1943, that Dr. Vetter, in his treatment of typhus with acridin had a mortality rate of 30%? 30%?

A. I cannot remember the report but it is possible that I was told about it.

Q. Well, will it help your recollection, Mr. witness, if I remind you that at that time Dr. Vetter reverted to further tests with B-1034 because of the failure of acridin?

A. I don't know that.

Q. Did you know, Mr. witness, that in January 1943 Dr. Fussgaenger continued his experiments with both methylene-blue and acridin on typhus patients?

A. As far as I know Dr. Fussgaenger never worked on patients.

Q. Did Dr. Fussgaenger inform you that his results in testing methylene-blue were very poor?

A. In order to make this very clear, Dr. Fussgaenger, as well as myself, worked in the laboratory. I heard via Leverkusen, that the

Hoechst people, that is Fussgaenger, had found a nitro-acridin preparation against typhus. I asked for this preparation and in an experiment I compared it with methylene-blue and vice-versa. Dr. Fussgaenger compared his nitro-acridin with my methylene-blue. All these experiments were made on animals.

Q. Mr. witness, do you happen to recall when the second expose on acridin as a treatment for typhus was prepared?

A. No, I don't know that. That was not our preparation.

Q. I know that. I am asking now whether the second expose which was drawn up after the various tests had been made came to your attention at all.

A. That's possible, yes.

Q. You don't know, do you, whether the second expose, instead of being prepared as was the first one, by Hoechst, was prepared in conjunction with Elberfeld and Leverkusen?

A. The second expose certainly was not prepared in connection with Elberfeld because Elberfeld had nothing to say about the Hoechst preparations.

Q. Mr. witness, you saw the defendant Hoerlein rather often, did you not, during that period?

A. Whether I saw Mr. Hoerlein often at that time I don't know, but in general, I saw him quite often.

Q. Did you discuss with him the tests concerning B-1034 and the results you received?

A. It is certain that I informed him that I was astonished that physicians claimed that B-1034 was effective in typhus, because from the beginning I was skeptical in this respect. Skeptical to a certain degree, and it is also certain that I informed Hoerlein that B-1034 was without efficacy in typhus in animal experiments. But I don't think that I reported any more details to him beyond that.

Q. Mr. witness, turning for a moment to methylene-blue again.

You recommended methylene blue, did you not, to Dr. Martens at Leverkusen for the clinical testing of methylene-blue in typhus cases at about the end of 1942?

A. Yes.

Q. Now, Mr. witness, was that really your idea to have methylene-blue further tested clinically, or was that the idea of defendant Hoerlein?

A. That was, of course, my idea.

Q. Mr. witness, will you explain how it is that if it was your idea to start clinical tests with methylene-blue, as is indicated by your letter to Dr. Martens, how was it that prior to that time, as prior to 23 December 1942, the defendant Hoerlein.

DR. KLETTE: Objection, Mr. President, Mr. Kinschiff has mentioned a letter of Dr. Kikuth's as if that was a matter of course that this letter is known to Dr. Kikuth. If one mentions such a letter one must show it to the witness or read it to him.

MR. KINSCHIFF: This letter which was referred to, if it please the Commissioner, was in the affidavit that the witness gave to the Defense.

THE PRESIDENT: I think that we should recess for about fifteen or twenty minutes. It is about due. We will take a recess for fifteen or twenty-minutes.

(A short recess was taken.)

THE MARSHAL: This commission is again in session.

THE COMMISSIONER: You may proceed with your examination.

MR. MINSKOFF: Mr. witness, I would like to go back a moment to this subject we discussed a bit earlier. The reports that you mention you received from Dr. Martens concerning the testing of products such as B-1034. Can you state whether you received those directly from Dr. Martens or did you get them through the defendant Hoerlein?

A. The reports of Dr. Martens to Leverkusen were sent to the attention of the director at Alberfeld. When Professor Hoerlein was there then it is quite possible that he was the first one who looked into these reports, but it often happened this way that the reports came into the hands of Professor Kikuth at Alberfeld or one of the other executive members got hold of it first, or that Professor Hoerlein himself saw them first. He often was away on trips. If everything had been received by him first then a great deal of time would have been lost.

Q. Well, isn't it a fact that when the copy went directly to you that that would be a second copy and in cases where the first copy went to you it would have gone to Hoerlein first and be initialled by him and then forwarded to you?

A. No, that was not the case, but many letters came to me in the original.

Q. In those cases where you received the original without any initials of the defendant Hoerlein on the reports, did you, when you later saw the defendant Hoerlein, inform him of the contents of those reports?

A. Yes, in as far as I considered this necessary. If they were important matters then I discussed that with him, but, if in my opinion they were only unimportant matters then we took note of that and that was the end of it.

Q. Thank you. Now, let us turn to the question that we ended with at the time of the recess. Mr. witness, you have testified that the clinical testing of Methylene Blue in cases of typhus in about December 1942, was your idea. Now, I show you NI 9575, Exhibit 1679 of the

Prosecution; that is document book 86, English page 29, German page 34-35, which document by the way appears as on page 32 of the German, appears also in your own affidavit that you have given to the defense. Now the question that I put to you, Mr. witness, is if the idea for testing the preparation in typhus cases was your idea, will you explain how it is that in 23 December 1942, when you sent this letter, that the defendant Hoerlein had already sent the expose on the preparation to Dr. Mrugowski, and had already promised the necessary preparation for making of the tests?

A. The methylene blue was discovered by me and I had the impression that actually this was a preparation which had a specific effect against typhus germs. As during that time at the Front and also at home a great number of typhus cases occurred and the danger existed that we might have a large epidemic, I therefore had the greatest interest in making tests on people already sick and I had this preparation tried out by physicians in these cases as a possible remedy.

Q. Before I ask my next question I want the record to show that it is Exhibit 1677 we are talking about; NI 9578. Now, Mr. Witness, the question that I put to you was, could you explain how it is that if the idea of testing methylene blue on typhus cases at this time was your idea how was it that the defendant Hoerlein prior to your letter expressing this idea, had already promised this preparation to Mrugowski and had already sent the expose on the preparation to Mrugowski?

A. That my discovery was brought to the attention of Professor Hoerlein by me is a matter of course, and since this was a completely new matter I also handed him the expose which he wanted to look at more closely.

Q. Mr. Witness, in the ordinary course, you have testified this morning that the expose would be given from Elberfeld to Dr. Mertens, and Dr. Mertens would then pass it on to persons he saw fit to make the necessary tests. Now, in the case of methylene blue there seems to be some conflict, and I am hoping that possibly you can clarify it. In your letter of December 23, 1942, you send the expose to Mertens and you ask that the clinical tests be started in connection with methylene blue as a cure for typhus, but in that same letter you tell Mertens that you want him to pass on to Mrugowski the necessary quantity of the preparation and you inform Mertens that Professor Hoerlein has already sent him the expose. Now in the case of methylene blue is it your explanation that this was an exception from the usual procedure?

A. In this case of methylene blue, in contrast to the routine, it actually was an exception which might be explained by the fact that typhus is a particularly dangerous disease, and that in the field of typhus there was no time to be lost.

Q. So that because of the emergency created by a possible typhus epidemic, it is your testimony that the defendant Hoerlein took a direct personal hand in seeing to it that clinical tests were made with methylene blue, and himself sent the expose to persons protesting. That is correct, is it not?

A. During that time almost every physician who had anything to do with typhus asked us whether we could not give him something against typhus. Mrugowski addressed this question to me and probably addressed it to Professor Hoarlein as well, since this was a particularly urgent problem in which case not time could be lost, and in order to avoid any loss of time it was possible that without previously informing Leverkusen I promised Mrugowski that he would get this. All the more would we inform Leverkusen in this particular case, and we could deviate from the routine because Methylene blue was a preparation which had been known for more than twenty years as a curative preparation and therefore was nothing new.

Q. We sort of got a little bit off the subject again. Now is it your testimony that it was you who suggested to Mrugowski the testing of methylene blue as a cure for typhus, and even before you gave the expose to Mertens for testing?

A. I personally visited Mrugowski on my own initiative and that was because I wanted to discuss malaria questions with him. Mrugowski was the hygienical expert of the Waffen-SS, and the representatives of the army had told me that the Waffen-SS on the whole held different opinions concerning malaria, and I therefore visited Mrugowski in order to discuss malaria prophylactics with him, and during this visit Mrugowski told me that the malaria problem was not so important at the moment. Much more important was the typhus problem, because they did not know how to combat typhus, and I then told him that I had found a preparation which is already known which probably will have some effect on typhus, and this preparation he could obtain everywhere. However, I would inform him of the dosages to be used; the amount to be used; and that is why he asked me, to see to it that he would get a large amount of methylene blue, which was to be sent to him with instructions as to the proper doses so that he could then distribute it from there. How Mrugowski got hold of the expose I do not know. If this letter had not been in hand, I probably would have said that I had given Mrugowski the expose.

Q. Well, in view of the fact that the letter is before you, can

you now explain how it is that if you saw Mrugowski and you promised him the preparation, how is it that it was defendant Hoerlein who sent him the expose?

A. Mrugowski talked to Hoerlein before about the malaria question and it is quite possible that Mrugowski discussed with him exactly, just as I did, the question of typhus treatment. It is possible that he asked Hoerlein about this as well.

Q. Now, Mr. Witness, was it customary at that time to receive instructions from the defendant Hoerlein himself before sending any preparations for testing purposes?

A. No.

Q. Mr. Witness, I show you NI 9575, Prosecution Exhibit 1679, in Book 56, on page 29, German pages 34 and 35, and I call your attention, Mr. Witness, to the notation "Methylene to be sent immediately to Dr. Mrugowski. Professor Hoerlein has not yet given any instructions". Now will you explain, Mr. Witness, why you require instructions from the defendant Hoerlein merely for sending methylene blue for testing?

DR. NELTE: Objection. I beg your pardon, Mr. Commissioner, Mr. Minskoff read as a handwritten note a remark which is supposed to say that Professor Hoerlein -- what did you say again?

MR. MINSKOFF: "Has not yet given instruction".

DR. NELTE: "Has not yet given instructions". Actually, in German it reads: "Has not seen to it"; "has not arranged it". There is a difference between it, at least in the German language, whether I say "He arranged something" or "he gave instructions".

MR. MINSKOFF: If the Court please, we haven't gotten facilities, during the questioning, to alter the translations as they are officially given to us in the documents. I was reading it from a document in the document book in evidence, and if there are any corrections to be made to the English translation, I suggest that Dr. Nalte make appropriate suggestions to the Court. The English as I read it appears in evidence.

THE COMMISSIONER: Very well, perhaps on redirect examination it can be straightened out.

DR. NALTE: Your Honor, I must object to the charge raised against me here. What we are trying to get is the true testimony of the witness and if the English translation does not give exactly the sense of the original German, then I have the right to request that the witness be informed about the actual meaning or that he be given the German text.

MR. MINSKOFF: He has the German text in front of him. Yes, we gave him the German. He had all the German. The witness has had, from the start, the German testimony in front of him. There couldn't be any possible confusion.

THE COMMISSIONER: Very well.

BY MR. MINSKOFF: (Continued);

Q. Now, the question, Mr. Witness, if I may repeat it, is: Was it customary at that time to require instructions from the defendant Hoerlein for the mere matter of sending out a preparation for testing?

A. Whether at that time Professor Hoerlein gave instructions to issue preparations, I can answer that question in the negative because in the case of methylene blue it is a case which one could describe as an exception.

Q. All right, Mr. Witness. Now in this exceptional case of methylene blue and in this period of stress where there was a danger of typhus, do you recall whether the defendant Hoerlein himself stressed the urgency of sending the preparation to Krugowski as quickly as possible?

A. If Professor Hoerlein in this case showed some special

initiative, then this was partly done on my insistence because I had the impression that the gentlemen from Leverkusen—that is, Dr. Mertens and Dr. Koenig — considered the methylene blue with a certain skeptical attitude because the results so far with the other preparations, B-1034 and nitro-acridin, had not been successful as cures. Dr. Mertens agreed to a test but right from the start they were not very optimistic about it. But since I personally, owing to my own annual tests, had convinced myself that methylene blue showed some particularly good effects, I asked Professor Hoerlein in this case to influence Leverkusen at the same time and to emphasize that they should carry out these test and to put forward my interests.

Q. Mr. Witness, you just stated that at that time you were aware of the effect that other preparations —such as acridin 3582—were not effective as a treatment for typhus. Will you explain just how you knew that at that time acridin 3582 was not effective as a cure for typhus?

A. I did not say that I knew that. I said that Leverkusen had reached the conclusion that these preparations were not much good.

Q. Well, did Leverkusen inform you that they reached that conclusion?

A. I said already that I often talked to Dr. Koenig and Dr. Koenig assured me again and again that everything we had tested up to that time had not shown any decisive results.

Q. In other words, Dr. Koenig informed you of the experience and of the results of the testing of other products as cures for typhus apart from Elberfeld products?

A. We discussed that and in the case of B-1034 I convinced myself at Professor Seiffert's in Leipzig.

Q. Did Dr. Koenig tell you also of the circumstances in which he found out that acridin was not effective for typhus.

A. The circumstances?

Q. That is the question I am asking you. He mentioned that it was not effective as a cure for typhus. Did he tell you how he found out,

through what kind of tests, through what kind of tests, through what kind of people, through what kind of circumstances that it was not effective?

A. Certainly. He told me that he had this tested by several people. As far as I know, quite a number of people did test it and certainly he probably mentioned the name of Dr. Vetter on that occasion. This probably happened. But I could not imagine anything when I heard that name in particular because I didn't even know Dr. Vetter.

Q. And did he tell you that Dr. Vetter was conducting his tests in the Auschwitz Concentration Camp?

A. He did not tell me that.

Q. As a scientist, Mr. Witness, wouldn't you be interested in knowing under what circumstances and what kind of people the tests were being made. Wouldn't that be a relevant factor in determining how good the tests were?

A. In these cases I was only interested concerning B-1034 and on the basis of my own research with Professor Seiffert, I could form my own opinion. In this case of B-1034, I got information from Professor Ruge, who was known to me personally.

Q. Now — I am sorry. You have more to say there?

A. And after all I had personal relations with the Hamburg Tropical Institute and I was convinced about this even sooner than the gentlemen from Leverkusen.

Q. Now, Mr. Witness, you have testified as to the urgency of finding something to treat typhus. Now, was the particular urgency under which you and the defendant Hoerlein had the exposé and preparations sent to Mrugowski, was that caused by a particular series of experiments which he contemplated conducting at that time?

A. I do not know that a special series of tests had been planned.

Q. Mr. Witness, I show you NO-265, which is Prosecution Exhibit 160. It is in Book 85, on page 19 of the German. This is from the Wing diary, entry 10 January 1943. Will you show it to the witness, please? Now, the part that I am particularly referring to, is the heading, "Therapeutic

Experiments, Acridin and Methylene Blue."

A. It doesn't say so here.

Q. That will be page 19, I believe, of the German.

A. 19?

Q. That is right. I am sorry, it is page 26. In it appears the heading, "Therapeutic Experiments, Acridin and Methylene Blue," and underneath the heading is: "On the suggestion of I.G. Farben Industry A.G., as spotted fever therapeutics were tested (a) Preparation 3582, Acridin" and further on "(b) Methylene Blue, tested in experiments on mice by Professor Kikuth, Elberfeld." Now, Mr. Witness, may I ask you, do you know who, if anyone, in I.G. Farben made that suggestion?

A. At any rate, nobody from Elberfeld made that suggestion.

Q. Mr. Witness, did a suggestion — I withdraw that. Methylene Blue was your particular product, was it not?

A. Yes.

Q. And you are certain that you personally did not make the suggestion that methylene blue be tested in typhus cases, on or about 18 January 1943?

A. That I arranged for these tests to be carried out? That is not so.

Q. Just so we get the record clear, is it your testimony that you didn't suggest to Dr. Ding that these experiments be made or that you just didn't suggest at that time that there be experiments made?

A. I did not suggest that any experiments were to be carried out.

Q. I don't want the word "experiments" to be a word at bar. I want to know whether you suggested that tests be made at that time.

A. I merely talked about typhus with Mrugowski and Mrugowski told me that a great number of typhus cases existed in the hospitals and I informed Mrugowski that I had found a cure, or rather a preparation which probably would have some effect in the case of typhus. Mrugowski

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then asked me whether he could get this preparation and I told him, "This is methylene blue which can be obtained anywhere," but that I would gladly comply with his desire by sending a large amount of methylene blue from Leverkusen for the treatment of the typhus cases.

Q. When you spoke to Mrugowski, did you also discuss other preparations which I.G. Farben made available to him for testing in the case of typhus?

A. No. Mainly I talked with Mrugowski about malaria prophylactics, Methylene blue and the typhus problem. I only talked about on the side.

Q. Now, Mr. Witness, Dr. Mrugowski at this time was very much concerned with the possibility of an epidemic of typhus and when he discussed the problem with you, did he just speak to you about the suggestion you had on your own product, without at all mentioning the other products which your own firm, I.G. Farben, was making available to him for similar tests? Is that your testimony?

A. As far as I can remember, he did not talk with me about any other products.

Q. Did you know, Mr. Witness, that Dr. Ding was one of the assistants of Dr. Mrugowski?

A. I did not know Dr. Ding. I only heard about him after the war. And of course since I did not know him I could not know that he was a collaborator of Mrugowski.

Q. During the war, you did not see the report of Dr. Ding as to the results of experiments on typhus cases of acridin, rutonol, methylene blue? That report never came to your attention?

A. No.

MR. MINSKOFF: Thank you. No further questions.

REDIRECT EXAMINATION

BY DR. HELTE:

Q. Witness, the prosecution talked with you about the regular Saturday discussions in Elberfeld. I am interested to know whether during one of these Saturday meetings in Elberfeld at any time the question was discussed whether it would be useful that preparations which Elberfeld handed in for clinical tests should be tried out in concentration camps.

A. During these Saturday conferences, this question which you just mentioned was never discussed.

Q. Can you tell me whether the concentration camp inmates were suitable objects for clinical tests?

A. I do not consider them suitable for tests because they probably are people whose physical and mental state has deteriorated and if these people whose mental and physical state is weak, if tests were to be carried out on them, probably wrong conclusions would be drawn which at least could not be generalized.

Q. You mean then that clinical tests on concentration camp inmates would normally be senseless because one cannot get a result which is valuable generally?

A. Yes.

Q. If you talked to a physician say about methylene blue or B-1034 and handed these means to a physician for clinical tests, at that time could you have supposed and anticipated that this physician might use this preparation and test it for its effectiveness on people whom he previously injected artificially?

A. That would be quite impossible, that one of us would ever have thought of a thing like that.

Q. Why is this idea so impossible?

A. Because human beings just aren't test animals, because this violates the ethics of doctors and physicians.

Q. Well, you see it did happen, in fact. I just want to ask you: Is artificial injection of typhus just as suitable to obtain good results in a test? Does it have the same results as a natural infection would have?

A. For a therapeutical opinion on a preparation, we always preferred to have a person who naturally was infected with a disease. A human being who has been infected artificially is not so suitable for such a therapeutical test because the illness on the whole is much more serious

in the case of artificial infection than in the case of natural infection.

Q. Therefore, the sentence also applies that there would be no point in it to make therapeutic tests on people you had infected artificially because the results would not be valuable generally. Therefore there would be no advantage achieved for humanity?

A. Yes.

Q. In any report which you saw, no matter from whom, did you ever read that experiments were carried out in concentration camps, on concentration camp inmates?

A. No, I only heard about such experiments after the end of the war.

Q. The prosecutor discussed with you the effectiveness of B-1034. He said that in July 1942 you realized that the preparation was not strong enough in order to justify its applicability. I now ask you: Does it occur that a new cure has good results in tests on animals but in therapeutic tests on a human being it does not have the same effect as it had in the tests on animals?

A. Yes, that happens.

Q. Would the fact that you might believe that the effect on the human being is different than that on an animal, stop you from making further experiments in order to develop the substance?

A. Yes.

Q. When?

A. I would conduct further experiments in any case if the preparation was not successful on human beings but did show some effect in animal tests. Then the continued experiments would be that new preparations of the same type would be made which would also be tried out in tests on animals, hoping that better preparations would be the result.

Q. Then you would continue the experiment?

A. Yes.

Q. I now mean if such a preparation —as, for example, B-1034 — in the animal test reduced the mortality to thirty per cent, while the normal mortality for the same groups would be thirty-four per cent, would it be worth while to sell this preparation?

A. No.

Q From the point of view of the physicians and of the research worker, would there be a danger for the person who is being treated with this preparation because the mortality rate was reduced from thirty-four to thirty per cent?

A Yes, of course it would be the physician's duty to continue further experiments of that kind and in such a case it would be our duty to put the preparation at the disposal of the physician without actually selling it publicly. In such a case, we would not sell it, publicly, but all the persons interested who had such cases of illness would be given this in order to use it for treatment.

Q And may I ask you whether any harm would be done to a typhus case by using such a preparation? Could it have been possible?

A No. This is shown by the fact that the percentage has been reduced, even if only slightly.

Q Therefore, there are cases where the effect is not so strong that it justifies selling a product publicly, but it is good enough in order to be an improvement in the field of cure?

A Yes.

Q And is that the case with B-1034?

A Yes.

Q The prosecution put to you the document NI-12443, or at least they mentioned it. This is a letter of the Scientific Department II to you. It concerns the physician Kozicky. They talked about a Russian physician here. That is wrong. It was a German physician. The letter reads: "To Army Doctor, Assistant Doctor, Dr. Kozicky, Field Post No. 08751, who on the 12th of February 1942 received testing materials of the preparation B-1034, sent us three sick case histories made out by a Russian female physician, of which we are giving you a German translation of each one. Many new developments cannot be seen from these communications." And now another document in the prosecution's document book, is the translation of the letter of the female doctor, Dr. T, to the Assistant Physician Dr. Hubert Kozicky, and I quote the letter

by the Russian female doctor to the German Field Doctor, Army Doctor.
"I thank you for the preparation you sent me. I could only apply it on three patients. I have gathered the following impression. The preparation improves the subjective state of the patient and speeds up the recovery. That is, the state of health is reestablished sooner." I do not know why the prosecution left this in the document book, this letter by the Russian female doctor. What is your opinion of this?

A My opinion is the same as the favorable opinion many other physicians had on this preparation. For example, Dr. Seiffert, who was a great authority in this field and who knows much about typhus from the last world war already, the First World War, he was already firmly convinced that this preparation was, he said, important concerning typhus.

Q Therefore, we actually have a case here where the effect in the animal tests of typhus was smaller than in the case of tests on human beings?

A Yes.

Q The examination by Professor Weese, was this so? Would you say that this preparation could have some harmful effect on the typhus case?

A No, that is not so. The preparation B-1034 is a preparation similar to prontosil, which is closely related to prontosil. And that preparation, prontosil, has been tried out in millions of cases, on human beings who had suffered from all kinds of diseases. That is why it is quite impossible that this preparation could do any harm to the person who has typhus. If individual observations show that the preparation did not agree with the patient, then it shows the fact that aspirin and other preparations and other substances have not been very effective either in some cases of typhus because in their state of weakness the patients often are not in a position to swallow the preparation and because the stomach is so empty that they also vomit these

preparations. But this applies not only to B-1034 but also in general to any medical products, any drugs which are given to the patients.

Q When discussing with Mrugowski these questions, did you ask him that the clinical tests may be carried out with methylene blue?

A No. Mrugowski told me about the great number of typhus cases among the soldiers and he asked me what one could do in such a case and whether in the meantime we had not got so far as to find a cure for this disease.

Q Did the prosecution ask you whether a certain amount of pressure was exercised on Mrugowski to try out this product, methylene blue? From the reply, we understand that your answer is in the negative as far as the origin of your discussion is concerned. The passage about which the prosecution speaks, that refers to documents which they submitted and they quoted it, in as far as shipments of methylene blue are concerned. I would like to ask you whether you know the proceedings. Why the moment you sent the letter to Martens, Professor Hoerlein obviously was impatient and answered that the letter had not yet been sent off. Did you know about that?

A Professor Hoerlein was impatient about it because a certain delay had occurred by not sending off the preparation and when we inquired from Leverkusen about it, we found that the preparation had not been sent off as we thought in Eberfeld but that this shipment had not yet been sent off.

Q Did Mrugowski or Ding ever receive a report about the application of methylene blue?

A No.

Q Did you know that Mrugowski had any official relations with the Concentration Camp Buchenwald or any other concentration camp?

A No.

Q The prosecution believed that in the case of methylene blue one could find that you departed from the usual procedure according to which all normal clinical tests were conducted by the Scientific Department

in Leverkusen. You answered to my question whether you yourself or at the request of Professor Hoorlein, did you arrange for the clinical tests to be carried out, with Professor Mrugowski?

A I went to Mrugowski on my own initiative, on the advice of the gentlemen from the Military Medical Academy.

Q Therefore you yourself saw to it that the clinical test was carried out.

A I did not see to it that it would be carried out.

Q Oh, I see, you did not carry it out. You said methylene blue was not a new preparation?

A No, it is a preparation which for about twenty-five years has been sold publicly and which has been used in all kinds of infectious diseases, more or less successfully — malaria, for example, various infections, erysipelas, and other diseases.

Q Therefore, in such a case one cannot talk about a clinical test, but how would you judge this case?

A I would not talk about a new preparation, but about finding a new application of a preparation which already existed.

Q If this preparation already exists, and if it is known by doctors, does that determine that it is completely harmless, to be used on human beings?

A Yes.

DR. HELTE: Thank you, I have no further questions.

THE COMMISSIONER: If the prosecution has a great many questions —

MR. MINSKOFF: No, just a few.

THE COMMISSIONER: Very well.

RECROSS EXAMINATION

BY MR. MINSKOFF:

Q One thing I would like to get clear, and that is, you have mentioned there that you received reports even in cases that Dr. Helte just stated to you—three patients only were involved. You received reports from all other sources as to how the tests came out on your product. Now, is it your testimony that you received reports as to testing of your product all over except the reports that Vetter sent from Auschwitz and from Mauthausen over a period of several years—that those reports you did not receive? Is that your testimony, Mr. Witness?

A Yes. You mentioned this one report of three cases, but as Dr. Helte just pointed out, this was a very important report. This was a report which had special significance. It happened that Dr. Koenig called me up and said, "A report has been received from a staff physician, So-and-so. There are perhaps thirty cases, but they are not very critical. I think there is no point in my telling you about these results and sending you the report." Because it was not Dr. Koenig's duty to send me all the reports.

Q Your answer to Dr. Helte was quite broad. You didn't limit yourself to the document he read to you. You said sure you received that and many reports from other doctors. Now, my question is: Wasn't it customary for you to receive reports from various doctors and various testing places so that you could see how your product was making out in the various tests?

A It still is not possible that in some cases all reports could be sent because I actually was a malaria specialist and I had to take an interest in this big problem most of all and during the war reports arrived daily. Sometimes I did not even have time to look at each individual report. That would have been quite impossible.

Q Mr. Witness, I understand that, but I also recall your testimony this morning, that you were told by a man as important as Dr. Mrugowski that at that time it was far more important to fight typhus than it was to fight malaria. And now I am asking you, on this important question of typhus, when Dr. Vetter sent reports for more than two years, not one report, but a whole series of reports over two years, did none of those reports come to you?

A Dr. Vetter, as far as I heard afterwards, mainly worked with Hoechst preparations and not with our preparations. The only thing he did with the Elberfeld preparations was with B-1034 and right from the beginning I was informed about this. This was nothing new to me, this test by Dr. Vetter.

Q May I ask this question, Mr. Witness? How many tablets are used in the treatment of one typhus patient, on the methylene blue?

A I cannot say that offhand.

Q Do you recall approximately how much you required for the treatment of one person?

A I really don't know. I do not know any more now. I cannot say. But my exposé may show something about that.

Q Just one question more. Mr. Witness, you stated that this was an old preparation. For many, many years it has been used. Isn't it a fact that for typhus it was a brand-new preparation, with no previous experience whatsoever?

A With methylene blue?

Q Yes.

A With methylene blue, yes. In literature statements has been made from which one could draw the conclusion that methylene blue had

a certain effect in the case of human typhus cases. It wasn't pure methylene blue, but it was a product which contained methylene blue. This had already been written down in literature.

Q The only thing I am trying to print out here is to clarify the point you made, that this was an old preparation, that there was a great deal of experience in its use, and my point is--and I want to get your answer on it--that as a cure for typhus it had not been previously used. And that, in that sense, you were testing as a cure for typhus a brand-new product.

A The pure methylene blue, as we used it for the therapeutical tests, had not been used before. That probably was not used before because in Germany and in Central Europe typhus did not exist. The typhus problem only arose during the war here.

MR. MINSKOFF: Thank you. No further questions.

DR. NELTE: Just one question. I just would like to ask one question.

REDIRECT EXAMINATION

BY DR. NELTE:

Q Concerning the problem of reports, I would like to clarify this and therefore I ask you, is it correct that the reports of the Pharma agencies in Germany regularly sent reports to Hoechst and Elberfeld via Leverkusen, but that the reports which were outside the Pharma reports; is that correct?

A Yes.

Q Is it correct that in all other cases you were instructed or rather you depended on occasional reports, depending on the decision of the Scientific Department?

A Yes.

DR. NELTE: Thank you. I have no further questions.

MR. MINSKOFF: No further questions.

26 Apr 48-M-10-12a 4-Fox (Int. Juelich)
Court No. VI, Case No. VI (COMMISSION).

THE COMMISSIONER: The commission will be in recess until one
thirty.

(A recess was taken until 1330 hours.)

AFTERNOON SESSION

(The hearing reconvened at 1345 hours, 26 April 1948)

THE MARSHAL: The Commission of Tribunal VI is again in session.

DR. FLAECBSNER: Dr. Flaechner for the Defendant Dr. Buete fish.

Mr. Commissioner, with the agreement of the Prosecution I call the witness Dr. Hans Sauer, from Kronberg in the Taunus.

DR. HANS SAUER, a witness, took the stand and testified as follows:

THE COMMISSIONER: The witness will raise his right hand and repeat after me: "I swear by God, the Almighty and Omniscient, that I will speak the pure truth, and will omit and add nothing."

(The witness repeated the oath)

The witness will be seated.

The defense counsel may proceed with the examination.

DIRECT EXAMINATION

BY DR. FLAECBSNER:

Q. Dr. Sauer, for the record will you please give your residence, your profession, and your date of birth?

A. Kronberg in the Taunus, Schillerstrasse 6, Engineer by profession; born on 12 March 1890.

Q. Dr. Sauer, for the defense of Mr. Buete fish you have made out several affidavits. In agreement with the Prosecution you are to testify only about your affidavit of 13 October 1947, Document Buete fish 173, Buete fish Exhibit No. 28.

Do you have this document in front of you?

A. Yes, yes--No. 173.

Q. I am just told that the Prosecution also wants to interrogate you about the affidavit of 28 January. That is Buete fish Document No. 259. Do you have that one in front of you also? That is Buete fish Document No. 259.

A. Yes, yes, I have that one.

Q. Dr. Sauer, do you have anything to add to the statements in these 2 documents, or do you have anything to correct or explain in them?

A. No.

Q. Then, the witness will be available to the Prosecution.

THE COMMISSIONER: The Prosecution may proceed with the cross-examination.

CROSS EXAMINATION

BY MR. MINSKOFF:

Q. Mr. Witness, I'm referring to your affidavit Buete fish Document No. 259, which I believe is Buete fish Exhibit 47.

You state on the first page that the proximity of the Auschwitz concentration camp was by no means considered an advantage because its workers, at the most, were suitable only for earth work in levelling the ground.

Now, Mr. Witness, isn't it a fact that when you are confronted with the building of a large plant that the most important single factor is the availability of just such labor?

A. Shall I answer now?

Q. Please.

A. On all construction sites we had the best conditions if the workers who had been recruited remained there, worked their way into it, and gradually changed from the earth work to the other phases of work. It is absolutely unhealthy if one always has to bring in new workers for every new type of work.

Q. Now, witness, isn't it a fact that when you require carpentry work you hire carpenters and when you require bricklaying you hire bricklayers—that you don't necessarily use the original laborers who dug the trenches and the foundation or did the other types of work in the construction? Isn't that so?

A. Yes, the staff on the construction sites gradually increases. These, at the beginning—the staff which did the earth work—would then be able to train the others. The staff of the construction site Auschwitz started small: 3,000 - 5,000 - 10,000 - 20,000 - 25,000; and one group took over the other group.

Q. Now, Mr. Witness, let me try to clarify what seems to be a very simple point. The workers that you require in the construction of a plant at the outset, who do digging work and trench work and foundation work, they are not necessarily the same ones that could do bricklaying or carpentry work on electrical work are they?

A. Those are not the same, but I emphasize that we usually preferred to work with people who liked to work and who were willing to work and who remained to work for us.

Q Now, let us get back to the first question. When you state that it was no advantage to be near the concentration camp because the workers there were only suitable for leveling the ground, you are speaking about an entirely different consideration than you are mentioning now when you speak about a willingness to work. Is that so, Mr. Witness?

A I said here that the people at most seemed useable for foundation work, that is, utility workers. Of course we preferred workers who could grow into the work, who remained there, and whom one could continue to train.

Q Perhaps I have not quite followed you. How long did you contemplate the workers would remain if they were free workers? They were not inmates of a concentration camp, were they?

A I don't understand.

Q Well, let me put it in another way. In any event, if the plant was built and you started production, there is no question that at that time you required chemists and technicians. The same people who built the factory couldn't be used, or worked in, as you say, as permanent staff, could they?

A No, the workers, and this can be seen from the Leuna plant, and there were many, who were used in the construction of the building later became foremen. And they started from the very beginning.

Q Now, I think we understand each other. Or are you referring to them as the actual constructors of the plant. Now, let me ask you, in the actual construction of the plant, why couldn't the concentration camp inmates be of tremendous assistance when you were so short of labor at that time?

A The inmates of the concentration camp were not useful in a technical manner. We had no influence in the employment of these people who did not belong to us, and that's why we would not have been able to use them in a useful way.

Q Now, Mr. Witness, let me ask you this question. Did you

know, at the outset, when they first chose this site as the place for the construction of the plant, what kind of workers the inmates of the concentration camp would be?

A No.

Q Then, Mr. Witness, how can you say that they were not very useful because of the fact that you couldn't dispose of them freely, and because they had certain inhibitions because of the SS or for other reasons if, at the time, you didn't know what kind of people they were going to be? How could that enter into your calculations?

A I don't understand the contradiction.

Q Perhaps it is my fault. When you state, in your affidavit, that being near the concentration camp was no advantage because these workers had very limited use, and you explained, a few moments ago, that one of the reasons that they weren't useful was because they weren't free, how could those factors enter into the calculations in the selection of the Auschwitz site if, at the time, you didn't even know what kind of workers would be provided by the concentration camp?

A In selecting the site of Auschwitz this played no part. The Auschwitz site was selected because it was near the Silesian soft coal deposits, because there was a river there, because there was a railroad rail, and if one looks at the map, one is almost forced to choose the Auschwitz site. The fact of the concentration camp did not play any part.

Q Did you participate in the early discussion prior to the selection of the site at Auschwitz?

A No.

Q So that you don't really know how much of a factor the concentration camp was in the choosing of the site?

A No.

Q Thank you. Now, as a matter of fact, Mr. Witness, isn't it true that the question of labor procurement was, right from the

beginning, among the main problems of the erection of the plant?

A Yes.

Q I am sorry, I didn't hear your answer.

A Yes.

Q Thank you.

A The procurement of the workers was a main question in the construction of this plant because the plant was outside of all facilities. There were no large cities nearby, no large plant nearby. There was no university city nearby. We had to practically get all workers, procure them, and if we had been free, we would not have got any inmates. We would have got German workers.

Q Now, Mr. Witness, if, as you say, it was a main problem, as it obviously must be to have labor, if you are going to build a plant, then wouldn't it be necessary, through any competent engineer, before he approved a site, to have taken care of that very important factor, the procurement of labor?

A That was the job of the Reich Economic Ministry. They gave us the order.

Q Let me understand this one thing. Are we clear that before choosing a site, a competent engineer would have to take care of the problem of the necessary procurement of labor to build the plant?

A Yes.

Q Thank you. Now, you mentioned that the conditions at Auschwitz were such that they required, they gave no reason to report on them. They were perfectly normal. Now, let me ask you this, Mr. Witness. When you were in Auschwitz, where did you live?

A I always lived in Leuna, and in Merseburg we were informed about Auschwitz first in the beginning of 1941. Then many a construction conference took place in which the requirements for the Merseburg order were brought into accord with the Buna plant which was already being constructed. It was my job to look after the engineering phase of the construction, especially the assembly of machinery.

Q Before we leave this part of the question, may I ask you this. In the planning which took place in Leuna concerning Auschwitz, was that just the Defendant Buetefisch who was responsible and in charge of that? This is in Leuna. Or was there also Defendant Schneider and Defendant Duerrfeld?

A The Leuna part was handled by Dr. Von Staden. He attended all conferences and had to decide about everything which concerned Leuna. In the execution of the program, Dr. Buetefisch had the total planning. He did not concern himself with these individual conferences.

Q Who had the overall planning in connection with the problem of personnel in Leuna?

A In all construction sites there was a construction authority who took care of that. First of all there was Mr. Faust, then Dr. Duerrfeld who gradually grew into this job and then he became the director of the construction plant.

Q Now, Mr. Witness, you used to visit Auschwitz, but you say you didn't live there at all, is that right?

A No, I lived in Leuna.

Q Alright. Now, Mr. Witness, did you ever visit the dwellings in which other employees of I.G. Farben lived who worked in Auschwitz?

A Altogether I was in Auschwitz perhaps six times, and every time I looked at workers' homes and barracks, since this was of the greatest importance for the construction programs that the workers were accommodated well and were decently treated. We all agreed that only willing workers could be of use to us.

Q When you say "we all agreed" are you referring to meetings that you attended, like construction conferences or weekly conferences, at Auschwitz?

A "We all agreed"—I mean by that Dr. Schneider and Dr. Duerrfeld.

Q Now, the question was, was that agreed upon in the weekly conferences or construction conferences, or are you referring now to purely personal discussions you had of which there are no records?

A First of all, I refer to the informal conferences, and then there were the construction conferences. All concerns of the construction management were discussed there, and the procurement and treatment and employment of workers played a large part.

Q Now, in the treatment of workers, do you know how many employees of I. G. Auschwitz lived in one barracks?

A I don't know, but you probably have the documents.

Q I ask you that question, Mr. Witness, because you stated that it was so important to make sure that the employees and workers were happy and well taken care of. You say that you visited Auschwitz six times, and that each time you went to the barracks. Now, my question is simply this. At those times, did you ever observe how many employees of I.G. Auschwitz ever lived in one barrack?

A Well, I don't know how to answer this. If the barrack was big, a lot of them lived there; if it was small, a few of them lived in it. Everyone had his own bed, his closet, his chair, his day-room, and Dr. Duerrfeld showed this to us.

Q Now, let us for a moment turn to the barracks which housed the Eastern workers, the Ukrainians, the Poles. Now will you tell the Commissioner just how they were housed in their barracks?

A Just these people interested us and no differences were made. And I can say this right now, we were not at all in favor of employing foreign laborers in our plant. This was an order of Mr. Hitler which turned around all existing directives thus far. We were very disappointed about the fact that we had at that time to take so many foreign workers instead of German workers.

Q Mr. Witness, just the other day a defense witness testifying before the Tribunal mentioned that there were four in his room. Now, is it your testimony that the foreign workers also lived four in a

room, or was it more crowded than that?

A Well, I saw large rooms which were just as large as this room, and perhaps there were sixteen people in a room. That depended on the way the barracks were constructed.

Q Did you ever visit Monowitz?

A No.

Q Mr. Witness, can you say, of your own knowledge, can you describe the nature of the washing facilities and toilet facilities in the barracks provided the Eastern workers and the Croats and Ukrainians?

A I cannot say that in detail any more. I can merely say that they existed, that there was a possibility to do that, and I remember how Dr. Duerrfeld showed that to us.

Q Now, Mr. Witness, you have stated in your affidavit that it was contrary to the work regulations and customs of I. G. to impose heavier work on the prisoners than on the other workers. Now, the question I want to put to you is this: Is it your testimony that the inmates did the exact, same type of work that the Germans and other personnel did at Auschwitz?

A Yes. As far as I was able to observe, there were no differences.

Q And, Mr. Witness, can you state from your own observations whether the physical condition of the inmates at Auschwitz were such that they could perform the same type of work that Germans and others could perform?

A One cannot tell that off-hand when looking at a man, in what kind of shape he is. From the inmates which I saw I gained the impression that they were not about to collapse.

Q Did they look weak and undernourished?

A No.

Q Did you ever, at any time, witness the workers leaving the plant and going back to Monowitz?

A I didn't observe that. I only was in Auschwitz for a very short time. Half a day or a day was spent in conferences, and in the afternoon, inspections were made.

Q Mr. Witness, when did you first learn of the selection of I. G. Auschwitz as the site for the fourth Buna plant?

A When I first heard about the planning, you mean?

Q When did you first hear that I. G. Auschwitz was selected for the site of the fourth Buna plant?

A Approximately, shortly after the order was given.

Q When did you first learn, Mr. Witness, that Goering, the Reichsmarshal Goering, had issued an order evacuating Auschwitz to make room for I. G. Personnel and to make concentration camp inmates available to I. G. Farben for the building of Auschwitz?

A I found that to be a fact when I got there.

Q When was that?

A That must have been in the beginning of 1941.

Q Do you recall any more exactly than that? Was it February?

A No. I don't know exactly. In the beginning there were misgivings in Auschwitz about the soil on which the plant was to be constructed.

Q Well, Mr. Witness, did you ever hear of the Defendant Schneider or the Defendant Buetevisch taking any steps to discontinue the use of concentration camp inmates at I. G. Auschwitz?

A In order to do what?

Q Did you ever hear of the Defendant Schneider or the Defendant Buetevisch taking any steps to have discontinued the use of concentration camp inmates for the building of I. G. Auschwitz?

A I considered it possible because it was our opinion, but such a step and when it happened as such, is not known to me.

MR. HINSKOFF: Thank you very much. No further questions.

REDIRECT EXAMINATION

BY DR. FLAJOHNER (For the Defendant Baetefisch)

Q Dr. Sauer, when Auschwitz was begun, wasn't it a fact that the workers' question was equally difficult throughout Germany?

A When Auschwitz was started, the Ministry of Economics and other agencies demanded much more than could be accomplished. It was my specific job, given to me by Professor Krauch in reference to the mineral oil installations, to give him an exact report as to what could be accomplished and what could not be accomplished. It was my specific job, given to me by Professor Krauch in reference to the mineral oil installations, to give him an exact report as to what could be accomplished and what could not be accomplished.

Q But this does not answer my question. I asked you, in the beginning of 1941, wasn't the labor question equally difficult all over Germany?

A Yes.

Q Was there any other industrial area where workers were free?

A No.

Q Did one, therefore, not have to get workers equally for any other site where a plant was to be constructed as in the case of Auschwitz?

A Yes, without a doubt.

Q In selecting a site for a plant, which was to become a permanent plant, was not the question of the proximity of natural resources and of the suitable terrain, the transportation situation for the workers of much more importance than the question of procuring the labor which one can always get there?

A Yes, as Louna shows.....

MR. MINSKOFF: If it please the Commissioner, the questions have all been such as to lead the witness to the answer desired. Now, this is the witness of the defense, not a prosecution witness,

and the questions should not suggest the answers.

DR. FLAESCHNER: I am conducting a redirect examination where they only refer to the questions which the Prosecution has asked. The formula is, in my opinion, not objectionable. They are not leading questions. Would you please answer, witness?

THE COMMISSIONER: Wait a minute. He will answer, and the Tribunal will consider the question and pass on that.

BY DR. FLAESCHNER:

Q Dr. Sauer, As far as the question of the employment of the inmates is concerned, you were asked whether foundation workers are not employed for a short period in the construction of a plant, then come the carpenters, and then come the brick layers, etc., etc., until the Raschwitz plant is completed. Now, I ask you, is the construction of such a giant plant not done in steps, in different phases? Isn't the construction of such a plant carried on in steps?

A If only one plan is to be carried out, then of course, in the beginning there is construction work, but in constructing a plant, it is expected that additions are needed and construction is always being done, and in the end a construction department remains which always does repair work so that a construction sector is retained throughout the construction until the plant is in operation.

Q In order to clarify that, I want to ask, was there such a construction department in Leuna too?

A In Leuna there was such a department which existed from the beginning. The first people who started with the construction, later did repair work. Of course, not all the same people remained, but a large part of the staff remained there.

Q Am I correctly informed that Leuna is more than twenty-five years old?

A Yes.

DR. FLAESCHNER: Thank you. No further questions.

MR. MINSKOFF: No questions from the Prosecution.

THE COMMISSIONER: According to my list, the next witness is scheduled for Tuesday, tomorrow afternoon, is that correct?

MR. MINSEOFF: Yes, that's correct.

THE COMMISSIONER: If the Defense has no further questions, then we will recess until 1:30 tomorrow.

(The commission recessed until 1330 hours, 27 April 1948.)

Official transcript of American Military Tribunal
VI in the matter of the United States of America
against Carl Krauch, et al, defendants, sitting
at Nurnberg, Germany, on 27 April 1948, 0900,
Justice Shake presiding.

THE MARSHAL: The Honorable, the Judges of Military Tribunal
VI.

Military Tribunal VI is now in session. God save the United
States of America and this Honorable Tribunal. There will be order
in the court.

THE PRESIDENT: Make your report, Mr. Marshal.

THE MARSHAL: May it please Your Honors, all the defendants
are present save the defendants Haefliger and Hoerlein, absent due
to illness; defendants Ilgner and Gajewski, absent excused.

THE PRESIDENT: Are there any announcements from counsel for
defendants? ... Any announcements from the Prosecution? ...

I will take just a few moments, gentlemen, to dispose of a
few pending matters. Judge Hebert has a ruling to make on behalf
of the Tribunal.

JUDGE HERBERT: Under date of 10 March 1948, supplemented by
motion of 15 March 1948, Dr. Pribilla, as counsel for the defendant
Lautenschlaeger, requested a medical examination of the defendant
Lautenschlaeger to determine whether he was capable of continuing
his defense in this case. That medical examination has been conducted
and report thereon was made to the Tribunal under date of 7 April
1948 from the medical officials of the 317th Station Hospital at
Wiesbaden. Subsequently, under date of 18 April 1948, Dr. Pribilla,
on behalf of his client, filed a motion requesting a separation of
the proceedings against the defendant Lautenschlaeger from the other
defendants in Case VI. The Tribunal has very carefully considered
the facts set forth in the motions filed by Dr. Pribilla together
with the medical reports referred to, and the motion dated April 18,
1948, is hereby denied.

The Tribunal does not feel that it has been established that

the defendant is incapable of properly conducting his further defense in this case.

THE PRESIDENT: The Tribunal will also rule on the motion filed by Dr. Nolte on behalf of the defendant Hoerlein, under date of March 30, 1948, which asks in the alternative that the Prosecution's Exhibit 1866, NI-13590, be stricken as inadmissible or that a part of that exhibit which is identified in the motion be stricken from the exhibit as evidence in this case. The Tribunal has given consideration to that matter and now sustains the motion of Dr. Nolte insofar as it applies to that part of Exhibit 1866, which follows the signature of Dr. Neuman, more particularly page 6 of the original exhibit. That part of the exhibit is now stricken from the evidence as well as all that part of the cross-examination of the defendant Hoerlein as pertains to the part which is now stricken from the evidence.

The Tribunal will also now rule upon the objections to the introduction in evidence of the documents found in Duerrfeld Document Book 18 offered by Dr. Seidl. I shall refer in the ruling only to the exhibit numbers in the interest of time, and I shall indicate that the exhibit is admitted or rejected.

Exhibit 425 is rejected; 426 is rejected; Exhibit 427 is admitted in evidence; 428 is rejected; 429 is admitted in evidence; 430 and 431 are rejected.

432, 433, 434, 435, 436, 437 and 438 are admitted in evidence.

439 is rejected; 440 and 441 are admitted in evidence.

442, 443, 444 and 445 are rejected.

446, is admitted in evidence; 448, 449, 450, 451, 452, 453, 454, 455 and 456 are rejected.

457 is admitted in evidence.

458, 459, 460, 461, 462, 463, 464, 465, and 466 are rejected.

The exhibits will be admitted or rejected in evidence in accordance with this ruling.

The Prosecution, if ready, may now proceed with the cross-examination of the defendant.

CROSS EXAMINATION (Continued)

ERICH VON DER HEYDE, resumed

BY MR. SPRECHER:

Q Dr. von der Heyde, I have a few more questions concerning your connections with the SS; between 1936 and 1945 did you pay dues in the SS?

A In Mannheim, when I was put on leave status, I paid my last dues. As far as I know, I paid no dues at all in Berlin, but I did to the Party.

Q When did you last pay dues in the SS?

A I cannot say exactly, Mr. Sprecher. The Party dues were collected, but, as I say, as far as I know the last time I paid dues to the SS was in Mannheim to Reitersturm 7.

Q When?

A 1936.

Q After you moved to Berlin, is it your testimony that you paid no dues in the SS?

A I paid dues to the Ortsgruppe (Local Group), but whether these dues were only for the Party or whether the Ortsgruppe turned over part of them to the SS I cannot say.

Q You are talking about the Ortsgruppe in Berlin?

A Yes.

Q Now, I show you a photostatic copy of Prosecution Exhibit 1598. This is found in Document Book 91, at page 48 of the original, and I will ask Your Honors to turn to that page, please.

THE PRESIDENT: What was the number of the exhibit, please?

MR. SPRECHER: 1598, Prosecution Exhibit 1598, page 48 of the Book 91.

BY MR. SPRECHER:

Q Defendant, when did you fill out that questionnaire?

A As far as I remember, that was in 1939. That was filled out to get permission for my remarriage.

Q You hadn't filled out such a questionnaire before, had you?

A I can't remember it. I think this was the only one.

Q Now, just to be clear, you said 1939, did you not? That is the time you filled that out?

A I remarried in November, 1939. I assume that it was about the middle of the year 1939 when I filled out this questionnaire.

Q Now, that would correspond to the entries, as far as your promotions are concerned, on Prosecution Exhibit 1597, which show that you became a lieutenant (an Untersturmfuehrer) on the 30th of January, 1938, and an Obersturmfuehrer on the 10th of September, 1939.

A Yes.

Q Now, that questionnaire before you is filled out entirely in your own handwriting, is it not?

A Yes, it is my handwriting.

Q Now, witness, would you think about this rather carefully. Did you have an SS number when you entered the Reitersturm in the SS?

A No, when I joined the Reitersturm I had no SS number, but when I was a member I was given an SS number. That is the number that is given here.

Q Yes, 200.180. 200.180.

A Yes.

Q Now, when did you get that number and where were you at the time?

A As I recall, I got this number in Mannheim, from the Reitersturm 7. I was in Mannheim at the time.

Q In what year?

A That must have been 1934, because I joined the Reitersturm at the end of 1933 and a few months later I was admitted, I was given the membership card.

Q Now, on Prosecution Exhibit 1598 that you filled out in

1939 there is an entry called "SS Unit," and there you entered "SD Main Office." Now, that corresponds to the entry on Prosecution Exhibit 1597, which is the SS card, which states "F.I. S.D.," meaning Fuehrer leader in the SD.

Why didn't you mention the SS Reitersturm in filling out your SS unit in 1939?

A Mr. Sprecher, I am glad to have a chance to clear that up. When I filled out this questionnaire I listed the unit where I was serving in Berlin, but not the unit to which I belonged. I want to make the distinction quite clear by giving an analogous case in my military career during the war. I was a reserve officer in Infantry Regiment 9 in Potsdam. I remained a captain in the reserve in Infantry Regiment 9 until the end of the war, but during the war I did not serve with my unit. I served with the OKW WI Rue Amt. I was never a member of the OKW WI Rue Amt. The OKW WI Rue Amt was the agency where I was serving, and in this case too, in this questionnaire, I listed the unit in which I was serving in Berlin. And further down on the same questionnaire in answer to the question "Honorary Activities," I wrote in my own handwriting "Honorary Collaborator of the SD Main Office." I did not consider myself a member of the SD Main Office only as a collaborator. All members of the German Army had their regiment number on their uniform, even when I was in the WI Rue Amt, I wore the "9" which was the number of my unit. But I never wore any insignia which would indicate that I was a member of the OKW WI Rue Amt where I was actually working.

Q. Didn't the WH Rue Amt control your official duties?

A. What official duties do you mean, Mr. Sprecher?

Q. The duties you performed for the Army after 1940.

A. The OKW WH Rue Amt was the agency where I served as a drafted soldier, but I always remained in Infantry Regiment 9 in Potsdam, and I was promoted to First Lieutenant and Captain as a member of that regiment.

Q. Now, the Prosecution Exhibit 1597, the SS record card of your assignment and promotions, lists you as Fuehrer in the SD in 1938; thereafter lists your promotions. There is no mention at any point of either the Reiter SS or of the Harzheim unit, although, as you will recall, on the membership card of the defendant Bueteffisch, which is in evidence in this same document book 91, each of his changes administratively is entered. That is not the case with yours.

How do you account for that?

THE PRESIDENT: Is that a record made by him?

MR. S. RECHLE: That is not a record made by him. He has testified about administrative details that might be performed by one unit as against the assignments to be given by another.

Q. I am sorry, Doctor. Do you understand my question?

A. Yes, Mr. Sprecher. I saw this personnel card here in Hamburg for the first time. How the SS registered its members I do not know, nor do I know what clerk filled out this card in some personnel office of the SS, and what this individual knew about me. I cannot say what knowledge of the facts this clerk had when he made these abbreviated entries — "Officer in the SD—"FI SD". I can explain only what I have just stated.

I should like to point out, since I have seen this card here for the first time that the notation, "Officer in the SD", is made only after the first promotion to Untersturmfuehrer on the 30th of January, 1938.

Q. That is correct.

A. While in the subsequent promotions on the 10th of September, 1939, and on the 30th of January, 1941, there is no entry regarding assignments.

Q. Now, you received notification of your promotions in the SS in 1939 and 1941, did you not?

A. Yes, as far as I remember, I got them by mail.

Q. And from what office did they come?

A. I cannot tell you exactly, but as far as I remember they came from the SS Main Office, the personnel department.

Q. Where did you and your wife live during the war?

A. In Berlin, first in Berlin, until we were bombed out.

Q. Where did you live after you were bombed out?

A. I personally was in Frankfurt on the Oder, as I said yesterday. I was in the Ziehonkaserne barracks working for the OMW WI Rue Amt. My family went to live with relatives near Posen, on an estate.

Q. You never returned to Mannheim during the war to establish a residence, did you?

A. No, I was not in Mannheim again.

Q. And your wife never lived there?

A. No; from this place of refuge in Posen my wife fled before the Russians to Holstein, where my family is still living today.

Q. Now, Mannheim is just beside Ludwigshafen, is it not, located just be Ludwigshafen?

A. Yes, it is separated just by the Rhine.

Q. And you took your residence up there at the time you had your job in Ludwigshafen, is that correct?

A. Yes, the employees of the Ludwigshafen plant often lived in Mannheim because it is a nicer city than Ludwigshafen.

MR. SPECKER: No further questions.

THE PRESIDENT: You had better not let the Ludwigshafen Chamber

of Commerce know about that statement, Doctor.

Is that all, gentlemen? Anything else from Defense counsel?...
Anything, Dr. Hoffmann?

DR. HOFFMANN (Counsel for defendant von der Heyde): I have no questions, Mr. President.

THE PRESIDENT: Then the defendant is excused from further attendance on the stand. Now, Dr. Hoffmann, do we understand that you have some witnesses now that you wish to call?

(Witness excused.)

DR. HOFFMANN: Yes, Mr. President, after a consultation with Mr. Sprecher I have reduced the number of witnesses to three. The first witness I should like to call is the witness Knaemacher.

THE PRESIDENT: The Marshal will bring in the witness Hans Knaemacher. Dr. Hoffmann, which three do you propose to call, do you know from this list?

DR. HOFFMANN: Mr. President, I beg your pardon, these are the witnesses Knaemacher, Enderle and Silcher. I will waive the others.

THE PRESIDENT: Very well.

(HANS KNAEMACHER, a witness, took the stand and testified as follows:)

MR. SPEECHER: Mr. President, Dr. Hoffmann has just informed me that he hasn't given notice on these witnesses for the reason that he expected that he would be going on Wednesday instead of carrying on his case yesterday and today. Now, I think, Your Honors are rather familiar why some notice is required around here under the rules, and of course the thing did not come up very much in the Prosecution's case because ordinarily we were calling witnesses who had given an affidavit and there was plenty of opportunity to the Defense to make the necessary preparations. When there was not, we did follow the rules with respect to notice.

May I make the following suggestion, namely, that being without

the required notice, if it appears appropriate to the Prosecution, to be allowed to either postpone cross-examination or to take it before the commissioner? Otherwise, we would want to insist on our rights under the rules.

THE PRESIDENT: The Tribunal feels that at this late stage of this trial that there may be some reason for the relaxation of the rules. If it were early in the trial we might take a different view of that matter. After all, rules are designed to promote the orderly trial of the case, and the reason for the rule is gradually fading out, so far as this case is concerned. We think also that the Prosecution ought to go on with its cross-examination because it was indicated yesterday that these would be very short witnesses. We shall expect the Prosecution to do that unless, perchance, it should develop that the Prosecution was for some reason taken by surprise. Then we might be inclined to transfer the cross-examination to the commissioner.

We would regret to do that, however, because even the commissioner is under a pretty heavy load now. And while we are not abrogating the rules, in the interests of time and the conclusion of this trial, we would expect a pretty positive showing of harm to the Prosecution before we would be inclined to do that. However, if some such emergency arises, we will meet it.

BY THE PRESIDENT:

Mr. Witness, you will remain standing for the purpose of being sworn. Please raise your right hand, say "I" and state your name for the record.

A. I, Hans Kammerer.

Q. You will repeat this oath after me: "I swear by God, the Almighty, the Omniscient, that I will speak the pure truth and will withhold and add nothing."

(The witness repeated the oath.)

THE PRESIDENT: You may be seated. Mr. Witness do you know what the lights before you are for?

A. Yes.

THE PRESIDENT: Just one thing further now. On account of our language difficulties here, when Dr. Hoffmann asks you a question, pause just a very brief period of time so that we get the English translation of the question before you start to answer. Otherwise, we get English and German and it is hard for us to understand. I think perhaps too it might help if you would move up a little nearer to the microphone because you must speak into the microphone in order that we get the translation.

Thank you, very much. Go ahead, counsel.

DIRECT EXAMINATION

DR. HANS KAMMERER.

BY DR. HOFFMANN:

Q. Witness, please for the record give your full name and your address.

A. Hans Kammerer; address, Oberkilsheim, Kreis Sinsheim, Northern Baden.

Q. What is your profession?

A. I am a chemist by profession. Since 1920 I have worked for I.G. Farben, Ludwigshafen, in a laboratory.

Q. Witness, were you ever a member of a Reitersturm Cavalry Unit in Mannheim?

A. I was a member of the SS Reitersturm, Mannheim, since 1933.

Q. Can you tell me about how this group was formed?

A. In June 1933, an SA Cavalry Unit was formed in Mannheim. In July 1933, it became an SS Cavalry Unit. This change was made because of the geographical divisions of the country. We could just as well have continued to be an SA group.

Q. Witness, first of all I want to ask you, do you know whether the defendant, von der Heyde was also a member of this Cavalry Group which you mentioned?

A. Yes, I know that.

Q. Do you know when he joined?

A. As I recall, it was in the fall of 1933, or somewhat later.

Q. I want to ask you very briefly about this Reitersturm; what was its activity?

A. It was primarily sport, riding horse back. We had riding lessons, went on rides, and also took part in races.

Q. Was there a lively Nazi ideology in this group?

A. No, there wasn't much of this ideology to be felt in this group.

Q. Why?

A. Because the people who joined did so usually because they were fond of riding horse back. All of the training and other things found in the general SS was virtually non-existent here.

Q. Witness, when and for how long were you a member of this Reitersturm?

A. I was a member of the SS Reitersturm until May, 1937.

Q. Why did you leave the group in May, 1937?

A. In May, 1937, I had to resign because when I had to prove my Aryan descent it was discovered that my life had a Jewish great grandfather.

Q. Witness, when you resigned in 1937, was Mr. von der Heyde still a member of the group?

A. Yes.

Q. The last question, witness. You were a member of the Reitersturm; have you been de-Nazified?

A. Yes, at Sinsheim, Denazification Court. I was put in Group IV a

follower of the Nazi Party.

DR. HOFFMANN: I have no further questions to this witness.

THE PRESIDENT: Any cross-examination of the witness-- any other Defense Counsel, first, have any questions of this witness? Apparently not. You may cross examine Mr. Prosecutor.

CROSS EXAMINATION

HANS KADGNERER.

BY MR. SPEECHER:

Q. When, after you resigned from the SS in 1937, did you again see the defendant, von der Heyde?

A. After I left I saw him only once in Heidelberg.

Q. You never saw him at Mannheim again?

A. After the end of the war, I was in Heidelberg.

Q. Oh, I understand now. You did not see him between 1937 and 1938 again in Mannheim, is that right, -- 1945, between 1937 and 1945?

A. During this time I did not see him any more.

Q. What was your number in the SS, witness?

A. My SS number, - I don't remember what it was.

Q. Did it come up during your Denazification process; do you remember whether you had an SS number or not?

A. Yes, I had an SS number.

MR. SPEECHER: No further questions.

THE PRESIDENT: Do you have any further questions, Dr. Hoffmann?

MR. HOFFMANN: No.

THE PRESIDENT: Mr. Witness, you are excused from further attendance.

MR. SPEECHER: I am sorry, Mr. President, I do have one further question.

THE PRESIDENT: Just a moment: the prosecution has another question. Go ahead.

BY MR. SPEECHER:

Q. Witness, perhaps you do not know this, since you left the Reitersturm

in 1937, but still you probably had some friends who were in the Reitersturm after 1937 in Mannheim. My question is this: Do you know whether the Reitersturm was dissolved in Mannheim after the beginning of the war, or don't you know?

DR. HOFFMANN: Mr. President, I should like to object: in my humble opinion, that would be double hearsay. Mr. Sprecher knows that the witness was not a member. He wants to know whether he heard something from his friends about something else.

THE PRESIDENT: I suspect that objection is pretty well taken, Mr. Prosecutor.

MR. SPECHER: I will rephrase the question. Do you know of your own knowledge whether or not the Reitersturm continued after the outbreak of the war in September, 1939?

THE WITNESS: I cannot tell you anything about that. I had no more connections with the Reitersturm or its members, but I believe that they continued to exist, since I heard nothing to the contrary.

THE PRESIDENT: Is that all now?

MR. SPECHER: Yes, Mr. President.

THE PRESIDENT: Now you are excused, Mr. witness. Announce your next witness, Dr. Hoffmann.

DR. HOFFMANN: The next witness I will call is Dr. Hermann Enderle.

HERMANN ENDERLE, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q. Please remain standing, raise your right hand, say "I" and state your name for the record.

A. I, Hermann Enderle.

Q. You will repeat this oath after me:

"Swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing."

You may be seated.

(The witness repeated the oath.)

THE PRESIDENT: Mr. Marshal, since we have several witnesses, I would appreciate it if you would help us when you have an opportunity, by explaining to the witness, what our problems are here with reference to the lights, and speaking slowly.

You may go ahead, Dr. Enderle.

DIRECT EXAMINATION

DR. HERMANN ENDERLE

BY DR. HOFFMANN:

Q. Witness, please state your full name for the record, and give your present address.

A. Hermann Enderle, Filsingen near Sigmaringen, in Hohenzollern.

Q. Witness, first of all, I should like to ask you when you met the defendant, von der Hayde?

A. I met Mr. von der Hayde when I belonged to the Economic and Armament Office. I was there from October, 1939, until July, 1945, first of all as a Refereant; later as a Group Leader. At the end of 1941 or the beginning of 1942, I believe Mr. von der Hayde came to this office and into the same group where I myself worked.

Q. Therefore, when exactly did you meet Mr. von der Hayde?

A. About at the beginning of 1942, when he came to the Economic Armament Office, to the same group to which I belonged.

Q. What position did you hold at this time?

A. At this time I was group leader; I was a major in the reserve.

Q. Where was the office to which you and Mr. von der Hayde belonged?

A. The office was in Berlin, Kurfuerstenstrasse, the Economic and Armament Office.

Q. Did this office remain in this place, or was it later changed?

A. In November, 1943, the office was bombed out, and part of the agency, including our group and department, was transferred to Frankfurt on the Oder.

Q. Now, witness, please describe very briefly the duties which you had to perform in your office, and specifically the duties of Mr. von der Hayde?

A. The group to which we both belonged was in the Military Economic Department of the Economic and Armament Office. This group dealt with the economic situation of some of the allied countries, and some occupied countries. I myself had charge of the work concerning Italy, Finland and Japan. Mr. von der Hayde was in charge of the work pertaining to Hungary, Slovakia, Bulgaria and Greece. Another Refereant handled Yugoslavia and Croatia.

Q. Witness, you say von der Hayde was in charge of the work concerning a number of countries. What do you mean he was "in charge" of them?

A. We had to investigate the economic situation in these countries very closely; all branches of economy, the food situation, the raw materials supply, the industrial capacity, electricity, and the financial situation.

Q. Now were you very well informed about Mr. von der Hayde's work?

A. Yes, for the following reasons. First of all, we dealt with the same questions, concerning the economy of the various countries, according to a set series of questions. Mr. von der Hayde handled exactly the same branches of economy for the four countries on which he worked, as I did for the three countries that I had to deal with. Also we had weekly group conferences which each Referent and group leader had to attend. During these conferences the latest events in the countries which we were working on were reported. Also the group leader asked for a special research into specific branches of the economy of these countries, which also had to be worked out in writing. Then both of us had to turn in weekly written reports recording the events of the past week in the economic situation of our countries.

Q. Witness, may I ask you, did this work which you have just described have anything to do with I.G. Farben; did that ever occur to you?

A. No, the purpose of this work was, first of all, to give information to the Wehrmacht Operational Staff about economic developments in the various countries; also the highest Reich authorities such as various Ministries. Secondly, the purpose of this work was to discover the surpluses and shortages in the supplies of the countries in connection with which we were working, and to report this information and advice to the foreign office or the Ministry of Economics so that the surpluses or shortages could be considered when Trade Agreements were negotiated.

Q. Witness, did you feel that you really worked as a Major in your position, or did you feel that you were really only a civilian in disguise?

A. Well we were in uniform, but I must say that honestly the whole character of our office was more a civilian. Actually, there were quite a large number of our people who were civilians, economists, or officers who had studied economics.

Q. But my question is all the more justified because of your testimony. Where were the results of your work sent?

A. Only to military agencies, or, as I said before, to the Ministries.

Q. Another question, witness. The Prosecution contends that Mr. von der Hayde spent a large proportion of his time for his former office; what do you know about the official work of Mr. von der Hayde?

A. I can only say that Mr. von der Hayde was kept just as busy with his work as I was, and I myself had so much to do that on many days in the week I had to take my mail home with me so that I could have time to read it. Mr. von der Hayde, as I have already said, had four countries to work on, and I had three. For that reason alone, he had somewhat more work, but in addition to that, in the course of time, Mr. von der Hayde had gotten a great deal of additional work. To increase the industrial capacity of the Balkan countries, Germany was supplying machinery, and supplied for the building up of the Balkan industries. Mr. von der Hayde had to correspond with the firms supplying this equipment, and also with the sub-contractors in order to get these orders carried out as soon as possible. This additional work was quite considerable, and I may say that Mr. von der Hayde had a mountain of correspondence every day.

Q. Witness, do you know anything about any leave which von der Hayde was supposed to have been given frequently to take care of personal matters in his civilian life?

A. I myself cannot remember that Mr. von der Hayde ever got leave for any special work, and it was very difficult to get special leave in our agency; our group leader was a very excitable man, and he did not like to be surprised by inquiries from superior agencies which he could not answer without his referent.

Q. Witness, were you friendly enough with von der Heyde that you can give us information about his private life after his official office hours?

A. Not in Berlin, but in Frankfurt on the Oder, we ate lunch and supper together every day, and unless one of us had something special to do, - some special work to do in the evening, - we were always together.

Q. Another question, witness, did you make any observation that von der Heyde, during his work at your office, was still working for Farben?

A. Because we were so busy it was out of the question that he could have worked regularly for Farben, and in view of our very close contact, I am sure I would have noticed it. But I can imagine that Mr. von der Heyde may have remained in close contact with his firm in order not to lose this connection. After all, everybody did that, who wanted to keep his civilian job for after the war.

Q. Witness what kind of a uniform did Mr. von der Heyde wear?

A. I saw Mr. von der Heyde only in Infantry uniform. I cannot remember the Regiment number. I believe there was just one figure.

Q. Did you observe anything about collaboration between von der Heyde and the SS, SD, or other Party agencies?

A. No. I did hear from a third party that von der Heyde was in the SS, but I never noticed anything of that sort in his manner. We had many officers in our office who were against the National Socialist regime who were known to be opponents of the regime. All of these men could freely express their opinion without being afraid of denunciation, especially from such a decent person as Mr. von der Heyde.

Q. Witness, I am interested in what you have just said. You said you heard from a third party that von der Heyde was in the SS. Were you given any details about that or was it just casual conversation?

A. I heard that just very casually that von der Heyde was in the SS. When he belonged to the Wehrmacht he had to leave the SS, or at least the membership was not active.

Q. But you know no details about his membership?

A. No.

Q. You said that not always pro-Nazi statements were made in your office. Can you give us an example of something that according to the law of the time might have been called high treason?

A. Yes. There was a statement of a General von Horstig made to me personally, and as I learned he made the same statement to other people too. Mr. von der Heyde, too heard of this statement. This General said, "I am ashamed to be a General because none of the Generals has the courage to tell that corporal his opinion frankly." At that time this statement might have caused General von Horstig to lose his head and his rank.

Q. No further questions.

THE PRESIDENT: Anything further from the defense? You may cross examine, Mr. Prosecutor.

CROSS EXAMINATION.

BY MR. SPEECHER:

Q. Dr. Witness, the corporal that the General was referring to, was Hitler, is that right?

A. Would you mind repeating the question?

Q. You said that the General said that none of the Generals had courage to tell the corporal what to do or where to go. The corporal you are referring to was Hitler?

A. Yes.

Q. No further questions.

THE PRESIDENT: Anything further? Witness, you are excused from further attendance. (Witness is excused.)

Do you have another witness, Dr. Hoffmann?

DR. HOFFMANN: Mr. President, is it possible to call the next witness who is Dr. Silcher? Can I ask him to take the witness stand?

THE PRESIDENT: You may take the stand, Doctor Silcher.

DR. FRIEDRICH SILCHER, a witness, took the stand and testified as follows:

THE PRESIDENT: Dr. Silcher, will you raise your right hand, say "I", and state your name for the record.

THE WITNESS: I, Dr. Friedrich Silcher, swear by God, the Almighty and Omniscient, that I will speak the pure truth, and will add and withhold nothing.

THE PRESIDENT: The witness has been sworn and may be seated.

DIRECT EXAMINATION

BY DR. HOFFMANN:

Q. Dr. Silcher, please for the record give your full name and your present address.

A. Friedrich Silcher, Wurnberg, Palace of Justice.

Q. Dr. Silcher, what connection did you have with the office Berlin, NW/7 of I. G. Farben?

A. From the fall of 1935 on, I worked there, and except in the beginning, I was head of the legal department of Berlin, NW/7.

Q. Dr. Witness, the corporal that the General was referring to, was Hitler, is that right?

A. Would you mind repeating the question?

Q. You said that the General said that none of the Generals had courage to tell the corporal what to do or where to go. The corporal you are referring to was Hitler?

A. Yes.

Q. No further questions.

THE PRESIDENT: Anything further? Witness, you are excused from further attendance. (Witness is excused.)

Do you have another witness, Dr. Hoffmann?

DR. HOFFMANN: Mr. President, is it possible to call the next witness who is Dr. Silcher? Can I ask him to take the witness stand?

THE PRESIDENT: You may take the stand, doctor Silcher.

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THE WITNESS: I, Dr. Friedrich Silcher, swear by God, the Almighty and Omniscient, that I will speak the pure truth, and will add and withhold nothing.

THE PRESIDENT: The witness has been sworn and may be seated.

DIRECT EXAMINATION

BY DR. HOFFMANN:

Q. Dr. Silcher, please for the record give your full name and your present address.

A. Friedrich Silcher, Wurnberg, Palaco of Justice.

Q. Dr. Silcher, what connection did you have with the office Berlin, NU/7 of I. G. Farben?

A. From the fall of 1935 on, I worked there, and except in the beginning, I was head of the legal department of Berlin, NU/7.

Q. How did you come to NW/7?

A. In the fall of 1935, I went there after previous negotiations with the leading men there and after I had left a previous position that I held with a bank in Berlin.

Q. Why did you leave this position with this bank?

A. The head of this bank became a member of the Vorstand of the Rentenbank-Kreditanstalt. He said to me that I could become his successor or could obtain another comparative position in the Rentenbank-Kreditanstalt if I were a Party member or if I were to become a Party member. But I didn't want to do that and I refused, and then it was clear that without being a Party member I couldn't get on there.

Q. Dr. Silcher, did you ever later become a member of the Party?

A. No.

Q. A. member of any other National Socialist organization?

A. No branch of the Party but the usual professional organizations: Labor Front and the Lawyers' League.

Q. When you applied for the position in Berlin, NW/7, were you asked whether you were a member of the Party?

A. No, it was the other way around. After the experience that I had just had, I asked whether it was required that I join the Party.

Q. And what were you told?

A. I was told, "No: politics is of no significance." I merely had to join the Labor Front, which I had not done up to then. That was generally done in this office so that the head of the enterprise had something to show the Party and then he could take care of everything.

Q. Dr. Silcher, why did you have this aversion to the Nazi Party and its branch organizations?

A. I love freedom and I have always hated everything that is unfree, everything that is compulsion, totalitarian, and so forth.

Q. Dr. Silcher, I can imagine that such a person could have con-

tact only with people of the same sort. Do you agree with me?

A. Yes.

Q. Dr. von der Heyde also worked in Berlin, NW/7, is that right?

A. Yes, he came somewhat after me.

Q. But you met him there?

A. Yes.

Q. Did you get closer acquainted with him?

A. In the course of years, I got to know him well enough to have a well founded impression of him.

Q. And would you please tell the Tribunal what this impression is?

A. It is always difficult to describe a person in a few words. Human beings are rather complicated creatures. But his most outstanding characteristics which I felt he had were absolute decency and integrity of character and attitude and absolute reliability. Then he is very sensible and calm, which means that one can debate with him very well even when opinions differ.

Q. No further question.

THE PRESIDENT: Anything further from the defense? The prosecution may cross examine.

CROSS EXAMINATION

BY MR. SPEECH:

Q. Dr. Silcher, since approximately when have you been associated with the defense in this case?

A. I took permanent work at the end of August 1947.

Q. And ever since that time you have been assistant defense lawyer to the defendant von Knieriem?

A. Yes, assistant defense counsel for von Knieriem.

Q. I am sorry. Would you repeat this? I didn't hear the last words.

A. Yes. The Assistant defense counsel for Dr. von Knieriem.

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Q. No further questions.

THE PRESIDENT: Anything further? You are excused, Dr. Silcher.

(The witness is excused.)

DR. ROSEN: Mr. President, that concludes my case save my request, to introduce if necessary, six or seven other documents on the day when my colleagues will submit their supplementary documents.

THE PRESIDENT: Very well. May I take advantage of this pause to make a couple of announcements or statements for the record. I may say to counsel for the prosecution and the defense alike that the Tribunal is now ready to take up the consideration of the objections appearing on the record of Commissioner Mulroy. We should like to have, if we may, an indication of the objections that are yet being urged, otherwise we shall feel obligated to go over the entire record and rule on every objection. If there is some of those that counsel are disposed to waive or do not care to urge, we would appreciate a favor if you would get to us very promptly a memorandum of the ones that you rely upon.

MR. SPEAKER: The prosecution made a few objections and it waives as to all of them.

THE PRESIDENT: Then the record may show that as to the objections made on the record of Commissioner Mulroy, the prosecution has now waived. Now as to the objections made by defense counsel, will you please, gentlemen, get us an informal memorandum of the ones that you wish us to pass upon, otherwise we will be obligated to go through and rule on them all. Just one thing further, before too long, the Tribunal would like to have, if it may, a joint stipulation of counsel for prosecution and defense showing when, where, and for what period of time each of the defendants on trial has been in prison. If you can agree upon one single stipulation covering that subject, it would be helpful to the Tribunal. We mention it now because that is information that we will sooner or later desire to have in the record, and if per chance a situation arises where there may be some controversy we should like to know of it before too near the end of the trial. We think it is a matter that you probably can agree upon and give us one stipulation that will cover that subject.

MR. SPEECHER: On the last point, I would like to suggest that counsel in each individual case confer with his client and submit to us his best statement of what he believes to be the fact. We will then make a short check and I am quite sure that we will come to a very quick stipulation with counsel.

Mr. President, on the first point where I said we waived the objections, I merely meant to indicate, as I think you understand, that we don't desire to press before your Honors any of these objections, although in connection with your weighing of the evidence, and so forth, our objection indicates our position, but we don't care to have any express rulings on them with respect to striking any of that evidence from the record of the commissioner.

THE PRESIDENT: Very well. We understand the prosecution's position.

Do any of the defense counsel know where Dr. Henze is? I think he is about due to make a presentation here.

DR. KRAFT (Assistant of Dr. Henze): Mr. President, Dr. Henze was just in the room and he is ready to begin with the Luglar case. If you will excuse me for two minutes, I will bring him.

THE PRESIDENT: The Tribunal will rise for its recess in order to get its books and be ready to proceed at its usual time.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session. *

THE PRESIDENT: The defendant Baetofisch will be excused for this afternoon to attend the Commissioner's hearing if he so desires.

We're ready to hear you now, Dr. Henze.

DR. HENZE (Defense Counsel for defendant Kugler): Mr. President, may I begin the presentation of my evidence for my client Dr. Kugler? I ask that my client Dr. Kugler be called to the witness stand.

THE PRESIDENT: The defendant Kugler may take the stand.

HANS KUGLER, a witness, took the stand and testified as follows:

THE PRESIDENT: Will you raise your right hand, Dr. Kugler, say "I" and state your name for the record.

THE WITNESS: I, Hans Kugler.

THE PRESIDENT: And now repeat the oath, please.

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will add and withhold nothing.

(The witness repeated the oath.)

You may be seated.

DIRECT EXAMINATION

BY DR. HENZE:

Q. I shall start my examination with the description of the career of my client. For expedition of my examination I offer an affidavit of my client in which he describes his curriculum vitae. I ask that Document Kugler #1 be accepted as Kugler Exhibit #1.

Mr. Kugler, the prosecution, in Book 11, presented NI 9754 and NI 5008 as Exhibits 304 and 305 respectively. You make statements about your career and position in the I.G. Farben Industry. The witness von Heider was asked about those two exhibits and at the time we made certain corrections and I should now like to ask you to tell me if you desire any further changes to be made.

A. No. At the time there were a few discrepancies but they were of an insignificant nature and they were caused by the fact that the

the prosecution's witness said that the date was the time when Frankfurt was occupied and did not express that I had already a few weeks before that time formally changed my functions because of the death of the Kommerzienrat Waibel, but I don't think we have to go into details here.

Q. Since we have introduced the curriculum vitae we can be brief. When were you born, Mr. Kugler?

A. 4 December 1900.

Q. When did you enter the service of Farben?

A. On the 20th of June 1921. I entered the plants of formerly Meister Lucius & Bruening, Hoechst on the Main, which is one of the predecessor firms of Farben. In the spring of 1921 I had passed my examination at the University of Frankfurt as certified business man-Diplomkaufmann.

Q. You also hold a doctor's degree. When did you acquire that degree?

A. The financial position of my parents did not permit me in 1921 to continue my studies regularly on a full time basis. I had to accept some job and that is when I entered, as I said, the services of the plant in Hoechst. I continued to study during my leisure time and in April May 1923 I was given leave for several weeks by the firm in order to prepare myself for the examination. I graduated in May 1923 and the subject of my dissertation, doctor's thesis, at the time, was "The Organisation and Financial Basis of the German Chemical Industry, with particular consideration to the post-war conditions."

Q. Mr. Kugler, please tell us when you became a prokurist in Farben and when did you become titular director?

A. In April 1928 I became a prokurist. I received the title of director in April 1934.

Q. You were a Party member?

A. Yes. In October 1939, shortly after the war broke out, I joined the Party. My attitude towards the Party and the reasons why I

joined the party are contained in my curriculum vitae that you have just presented. I refer particularly to paragraphs 7, 8, and 9.

Q. Did you hold any office in the Party or in any of its affiliated organizations?

A. No.

Q. What did you do professionally after the collapse in Germany?

A. After the occupation of Frankfurt by American troops at the end of March - I believe it was the 27th of March - until the 5th of July 1945 I remained in my position as director of the firm. Together with my colleague Kochler and a few other gentlemen I endeavored, in collaboration with the newly constituted German agencies and together with the occupying authorities I tried, as I said, to reestablish a certain business operation and especially that was done in the interest of the approximately three thousand employees of the former administration building Gruenbergsplatz. For the rest, details about this activity can be seen from one of the appendices of your motion of the 28th of October 1947.

Q.- What happened subsequently?

A.- On 11 July 1945 I was arrested for the first time and until 6 October 1945 I remained in detention and was at the disposal of the offices of the Bernstein Committee.

Q.- What did you do thereafter?

A.- On 6 October 1945, immediately after I was released from detention I was asked to go to the United States Control Office I.G. Farben, which had been in operation since the confiscation of the Farben offices of 5 June 1945, and which administered the Farben plant in the American zone since that period. Lt. Colonel Montgomery told me there that new regulations precluded the possibility, in the future, that I be employed by the Control Office. It was intended, he said, originally to employ me as an expert for the German tar dyes industry. In view of the regulations that I just mentioned, the regulation was the decree of September 1945, which forbade the employment of former Party members in leading position, Lt. Colonel Montgomery recommended to me that as an expert for commercial, organizational, and other international relations of Farben, I should continue to be available without pay. Otherwise, he said, he could not avoid having me arrested again, and in that case I would still have to be available under generally less pleasant conditions. I trusted the word of Lt. Colonel Montgomery when he told me that he personally wasn't very pleased about having to tell me all these things.

Q.- Did you take up this unpaid work?

A.- Yes. In the interests of the cause and in the conviction about the personal loyalty of the American gentlemen of the Control Office which was never disappointed, I worked without getting any pay from 6.10.1945 to 1.8.1946 I wrote a letter to my immediate superior, the American gentleman Mr. Lusky, in which I described my situation to him. The result of that letter was that beginning with 1 August 1946 I was given a small compensation for my expenses. Then some people from the Control Office, as a

result of that letter, very kindly tried to have a small part of my property released in order to somewhat alleviate my financial position. After my denazification trial was completed, on the basis of the law of 5 March 1945 — that is to say of 29 February 1947, which is the day when the American authorities approved and confirmed the judgment of that trial — until 18 April 1947, the day when I was again arrested — during that period I was regularly and properly employed by the Control Office.

Q.- Mr. Lusk, whom you have just mentioned, was one of the leading gentlemen in the Control Office?

A.- Yes, he was the man in charge of the decartilization branch.

Q.- You just mentioned your denazification trial. Please tell us briefly what classification you were given.

A.- Group IV, follower.

Q.- Then I should be obliged to you if you would describe your activity as an expert with the Control Office, briefly.

A.- First of all I wrote a history of the development of the German and foreign tar dyes history. The title "The Production of Coal Tar Dye Stuffs in Germany and in the World under special Consideration of the Situation of I.G. after the End of the War". It was dated 31 December 1945, in our Book 1 and dated 31 January 1946 in our Book 2. I also made a report which was then mimeographed by OMHUS in Berlin about the international relations of Farben in the dye-stuffs industry, together with an expert opinion about the question what position the German tar dye-stuffs industry should be given within the scope of the reorganization and the building up of German exports, and what consequence a complete paralyzation or a partial paralyzation would have, and the latter had been taken into account at the end of 1945 by the occupying authorities. The title of that treatise was "Activities of I.G. Farben Industry in the Dye-Stuffs Field", dated 30 March 1946, or 15 June 1946 in the mimeographed copy of OMHUS. The Prosecution, by the way, knows both of these treatises, for, in January 1947,

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When members of the Prosecution gave me this mission, I gave them copies in Frankfurt and they were the last copies that I had available. In the summer of 1947, while in prison, I wrote a letter to General Clay, Ambassador Murphy, General Draper, and to the Economic Ministry of the Land Hess, where I pointed out the last mentioned treatise and also the expert opinion. That may seem like an unusual step for me to take, but I said that it could not be pointed out sufficiently what part the tar dyes export and the tar dyes industry in general should be given within German economy, and also what position these industries held. I may add that during the war approximately ten percent of the foreign exchange holdings were derived from the export of German industrial production from the tar dyes industry. On the other hand I thought that the fact that I had not yet an opportunity up to that time of justifying my position to this Tribunal should not prevent me from trying, at least, to serve my country and the interests of German economy. In order to list a few more treatises I want to say that in the Summer of 1946 I worked for several months on an expert opinion about the problem as to whether it was justifiable and possible from an economic point of view that within the scope of the regulations about decartilization, the Hoechst plant should be split up into three or four legally independent units. At the time I warned against the execution of such an experiment, as I said, and the division was actually not carried out. I rendered an expert opinion about financial problems of the dissolution of the concern and I made a suggestion how the disentanglement, if it was decreed, should be carried out by way of an exchange of shares instead of selling outright individual plants. I worked on that expert opinion, together with Dr. Krueger, and Herrn von Silvinyl, the son-in-law of Mr. von Weinberg, who has been repeatedly mentioned in this courtroom. The subject of that expert opinion was, briefly, that plants that could at present not be evaluated should not be sold

for money that wasn't worth anything any more to people who didn't know anything about the operation of those plants anyhow. It was approved, however, in that expert opinion, that the concern be dissolved in a form which, on the one hand corresponded to the aims that the occupying authorities desired, but at the same time should prevent that the interests of share holders be infringed upon more than necessary. The shareholders amount to hundreds of thousands and in the case of that expert opinion we assumed that there were approximately 200,000 shareholders, and more recent findings indicate that that number is more correctly given as approximately 300,000 or 400,000. But which ever way it is the average holdings of one shareholder do not amount to more than 3,500 or 3,700 marks.

MR. SPRECHER: Mr. President, I dislike to make any objection during the introduction by a defendant of his own case, but it seems to me that the testimony that has just been given is exceedingly remote from any of the possible issues here.

THE PRESIDENT: Of course it is true that the Tribunal as such is not interested in the program or planning of the ultimate disposition of these plants. The defendant is entitled to tell what his activities have been and what he has been engaged in during the time under inquiry. But that, perhaps, can be abbreviated somewhat. The Tribunal would not be much concerned with the details of it. The subject matter of his activities are proper, but as I said we would not be interested in the details of the reorganization or the ultimate disposition of the physical properties of Farben. That is for someone else to worry about. You may go ahead. Ask your next question, counsel.

A.- I had finished my narration anyhow. But I merely wanted to say that from December 1946 until the time that I was arrested for the second time, I also had to be available to the Frankfurt officer from the Prosecution within the scope of the Control Office, together with Mr. von Heider, Dr. Struss, and a few other gentlemen who were called on the spot, such

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as Dr. Frank-Fahle. I had to give information about various things. I had to work out expert opinions, and I also made a number of affidavits about subjects of Count II of the indictment, which affidavits apparently were not considered usable and they are going to be introduced by the defense. On 8 April 1947, an officer of the Prosecution handed me over to the German Criminal Police. I was in the Frankfurt prison for five days and then came to Nuremberg.

DR. HENZE: I believe that brings us to the end of this part. Mr. Kugler, I want to introduce at this time one of my documents. Exhibit Number 2 is Document number 2. That is an affidavit of an employee of the Control Office of I.G. Farben, Fraulein Bonjunga, dated 27 March 1948. In this affidavit the affiant states how many procurists Farben had at the time when my client became a procurist, and how many deputy directors Farben had at the time when my client was given that title. I offer that document in order to give you an insight into the position of my client within the scope of this large firm.

I offer Document Number 62 as Exhibit Number 3. That is a letter of my client dated 20 June 1946 to Mr. Lusk, who has just been mentioned by my client. I offer that document in order to show to Your Honors what my client did at the time and what he thought his duties were in his position. At the end of this copy of the letter, my client certified to the fact that it was a literal copy of the letter he wrote at the time.

Exhibit Number 4 is my document Number 3. This is an affidavit of this Richard von Silvinyi whom my client has just mentioned. This affidavit is dated 22 September 1947. May I draw the attention of Your Honors to the fourth and fifth paragraph of this affidavit, because the description contained in these very paragraphs gives a good picture of the position of my client and of his knowledge of the business policy of Farben. These paragraphs speak for themselves so that I don't have to make any further comment.

May I offer Document 4 as Exhibit Number 5. This is a letter of Mr. Lusk dated 31 July 1946. Mr. Lusk wrote to my client before he resigned from his position in the Control Office of Farben and left Europe. The contents of that letter also speak for themselves.

The following two documents are letters of Mr. Jose Paul von Gans, a former employee of I.G. Farben. A letter which he addressed on 7 June 1938 to my client is Document Number 5. I offer that as Exhibit Number 6.

Another letter that he wrote on 24 June 1947 is Document Number 6. I offer that as Exhibit Number 7.

MR. SPRECHER: Mr. President, without waiving any of our rights with respect to the qualification of documents normally in this case, because of its nature, we will make no objection to this letter.

THE PRESIDENT: Very well. We understand the prosecution's position.

DR. HENZE: About the personality of the man who wrote this letter I may say this. Mr. von Gans was formerly working for Farben in Austria. He was affected by the Nuernberg-racial laws of the Third Reich. My client did everything within his power to retain Mr. von Gans in his position. For that conduct Mr. von Gans thanks my client in the first mentioned letter and in the second letter mentioned he shows that also after the collapse of Germany, his, Mr. von Gans', attitude did not change.

Mr. Kugler, your work in Farben and your membership in various committees and commissions and the date of your appointment to these committees and commissions can be seen from Exhibit 304 and 305 of the Prosecution; various questions arising there - from regarding competency and responsibility as a director; who was a member of the Vorstand and who was a procurist according to commercial law - all these questions I want to deal with in the further course of my examination. At the moment I want to ask only two questions. You were a member of the Inner-Dye-Stuffs Committee. Would you please tell us what gentlemen were members apart from you.

A.- Dr. von Schnitzler, Mr. Waibel, Herr Koehler, Herr Dr. Kuepper, and as a liaison man for the technical end, Mr. Ter Meer was there. I can not say at the moment whether he was a regular member of the Inner Dye Stuffs Committee or not, or whether he only had liaison functions.

Q.- You were a member of the Commercial committee. Please tell us when you were called to that committee.

A.- In December 1940.

Q.- Before that time did you participate in the meetings of that committee?

A.- Yes, as a guest when there were any points on the agenda that required my presence and which seemed to make my presence desirable — particularly in regard to Eastern questions.

Q. Did you then have the function and position of an expert recorder?

A. Yes.

Q. To whom were you subordinate in your last position as chief of the dyestuffs business for the Southeast European countries and as chief of the directorate department of Farben? To whom were you responsible for this activity?

A. In my capacity as chief of the sales of dyestuffs to the Southeast European countries I was subordinate to the director or the chief of the sales combine, Dr. von Schnitzler, directly. In my capacity as chief of the directorate department of the dyestuffs and the so-called central agency for international dyestuffs contracts, one can say that I was responsible to the entire body of the Vorstand members, at least, all those who were active in the dyestuffs business for the two departments mentioned were auxiliary organizations for the entire sales combine dyestuffs.

Q. In order to fill in the picture, may I ask one more question? Generally speaking, were you acting upon instructions of those agencies to whom you were responsible?

A. In principle, yes; but I want to say that in my capacity as chief of the sales to the Southeastern European countries, I was very extensively independent.

Q. Mr. Kugler, I now want to discuss with you individual counts of the indictment. I start with a few subjects under Count 1 of the indictment. In this courtroom it has been repeatedly mentioned that in December of 1936 Goering made a speech. The prosecution attaches great weight to this speech and to the knowledge about this speech. About this speech Mr. von Schnitzler reported in the Dyestuffs Committee. You were a member of that committee. Do you remember that report?

A. I didn't participate in the meeting at that time because I was away from Frankfurt.

Q. Do you remember that event in any other way?

A. After all we experienced in Germany during the last fifteen years, after all the sensations that we Germans experienced and all the speeches that we heard, it is extremely difficult at this time to reconstruct exactly what happened at the end of December 1936. One runs the risk and one is in danger if one attempts this to confuse events that happened at the time with subsequent information. I have a vague recollection to the effect that that speech was at the time not published in the German press but that foreign newspapers -- and, if I remember correctly, it was the Times -- reported about Goering's speech according to which he said: "We are already at war; we are just not shooting yet."

Q. That statement of Goering was conspicuous, wasn't it, and didn't you try to find out, even if you were not present in that meeting, what he actually said?

A. It is possible that I talked to Mr. von Schnitzler about it at the time. Mr. von Schnitzler at one time after a speech of Goering told me: "He seems to be mad." That statement remained in my memory for one thing because of its frankness and also because of the choice of words that he used. Perhaps Mr. von Schnitzler was referring to that particular speech but I don't know that any more.

When judging the action of individuals about such speeches, as was this speech of Goering of December 1936, one must take one thing into account: first, the speaker was known long before 1936 for a massive, somewhat brusque sort of expression and for coining slogans and political phrases. When it was still time, one did not take those slogans very seriously and when one wanted to take them seriously there was no more time to do that. The latter, for instance, we felt when in 1943 and 1944 we spent our nights in the cellar or on the roof with the fire extinguisher and if we then remembered Goering's words that an Allied plane would never come into the air over German territory; and one must also take into account the general political situation at the time. I only refer to the Italian campaign in Abyssinia, the Spanish Civil War,

and the talk that was going around by the government about the enemy in the East. It's possible perhaps that one or the other might have brought such expressions or utterances in connection with the general political situation at the time.

Q. I believe we can now turn to something else, Mr. Kugler. In the indictment it is stressed that employees of Farben held positions in the foreign organization of the Party. You were the chief of the sales of dyestuffs in some Southeast European countries. What do you have to say about this charge of the prosecution as far as facts about these countries are concerned?

A. The sales combine dyestuffs in its field service employed altogether approximately 5 or 6 thousand people at home and abroad. About 3 to 4 thousand people were working abroad. The number of people working in the Southeast European countries -- subordinate to me, that is -- was approximately 500; and by far the majority of these 500 people were indigenous personnel of the countries concerned and not Germans.

For the territory of my countries I can say with authority that the fact that among such a large number of persons there are also some people who have political ambitions and political inclinations must be understandable and that could not be prevented by the management of the firm. Normally, we didn't regard it as our duty or function to interfere with their personal life, just as little as we asked or wondered about the religion that our employees held.

My attitude was this: "We are operating a sales business and we are not a political organization"; and I didn't consider it in the interests of our Farben business that any of our employees should become active in politics at all, for such a political activity calls for political criticism and, in the final analysis, such an activity is always carried out at the expense of the pure business interests.

From my own field of work I want to cite one example. When approximately in 1934 or 1935 I learned that Herr Easing, who was a procurist at the time in our Yugoslav agency, was becoming active politically I

had him called to Frankfurt and I told Mr. Eting: "My dear sir, you have to be clear on one thing. Either you want to remain a business man or you want to become a politician"; and subsequently Mr. Eting remained in Party functions and Farben finally reconciled itself to that decision.

We had to consider, in view of the development of those years, that: "It is perhaps the lesser evil to have somebody in Yugoslavia in such a position upon whom one can take a certain influence — that is perhaps better than if some unknown extremist is active in that spot."

In the Eting case, it was actually possible to evade the pressure exerted from the authorities in regard, for instance, to the employment of Jewish personnel, and somewhat mitigate the effect. We shall deal with that at another spot; but I want to add that in the case of Mr. Eting, whom I mentioned, it is the same man who is mentioned in Exhibit 511, NI-1294, in Book XXV of the English, on page 3. That is a list of all the people in Farben for public functions. That was drawn up by, I believe, Dr. Frank Fehle and Eting is listed as the Landesgruppenleiter of Croatia from 1941 on.

Q. Another subject, Mr. Kugler: the prosecution has emphasized that people from Farben were active within the scope of the industrial organizations and you also worked for industry, namely, in the Economic Group Chemistry where you held a position. What have you to say about it briefly?

A. From the end of 1943 on I was the Deputy Chief of Sub-Technical Group 16, Tar Dyes and Dyes Intermediates. In the summer of 1944 I was called to the Advisory Council for Export Questions with the Economic Group Chemistry or the Investigating Agency for Chemistry. I dealt with details about my functions and my position in Kugler Exhibit No. 1 in my curriculum by territory and in that connection I want to refer to Paragraph 6 particularly. At the time when I took over the Deputy Management of Sub-Group 16 a reorganization of industry had just

been carried out and as a rule the man in charge of the sub-group was given as an assistant a so-called production manager Produktionsleiter. In the case of this Sub-Group 16, this man was Dr. Struss and Dr. Struss refers to that activity when he mentions in the introduction to his various affidavits that he was the production manager of the entire German dyestuffs industry.

Generally, I want to add a few words about this subject, as I see these things. In my opinion, it was in the nature of the business because of its size and because of its manifold productions, that people from Farben should become active within the scope of that organization. As far as my experiences and recollections go, I can state that Farben did not push itself forward to get such positions. As far as it was possible, of course, Farben gladly gave other people priority for such positions, if only in order not to expose itself to the criticism that Farben wanted to monopolize the organization of this industry.

If the Sub-Group management in the dyestuffs field was staffed by people from Farben, then that was more or less the necessary consequence of the fact that Farbenin German constituted approximately 95% of Dyestuffs production in their plants.

Q. Mr. Kugler, in Paragraphs 46, 51 and 52 of the indictment there is mention made of the cartels and they are linked to a war of aggression. Since at a very early age in your life you helped in building up the dyestuffs cartels, I ask you now to make statements whether Farben's activity in the dyestuffs cartel was in any connection with a war of aggression which was planned by Hitler.

A. No, with reference the charges contained in the paragraphs of the indictment that you mentioned, I want to say how I see these things. The Farben cartel is not mentioned expressly but I know from American publications and particularly from the magazine, "Germany's Master Plan," which was published in 1943, that in certain American circles the dyestuffs cartel is ascribed certain tendencies in the same nature as is contained in the paragraphs of that indictment.

I read that particular document at the end of 1945 but that opinion is erroneous. It is a misunderstanding of the conditions under which the European dyestuffs industry worked in the first post-war period. The situation in the period after the First World War approximately doubled the dyestuffs production capacity and the reasons I am not going to mention, but the consumption remained the same and people concerned with

dyestuffs were confronted by the alternative: "Either fight to the end or reach an understanding." That was a problem for European dyestuffs production as it never arose in the United States. Because in the United States for instance, - there was self sufficiency in dyestuffs production of approximately 5% before the first World War, which increased to a self sufficiency in dyestuffs production of approximately 90% before the Second World War broke out. That is to say, one built a new industry in a country protected by tariffs and a normal consumer. Therefore, such problems did not arise there as they did in Europe and, therefore, in my opinion, the opinion is wrong that in Europe industry was non-competitive and in America industry was competitive. That opinion is not correct - at least, from the point of view of the dyestuffs field.

I have incorporated these ideas in my two papers that I mentioned before and in that connection may I point to the survey of the international relations of Farben in the dyestuffs field which is contained in the von Schnitzler Document 177. That is an affidavit which I swore to, that I drew up shortly before my second arrest, for Mr. von Schnitzler and which the defense of Mr. von Schnitzler has offered.

I want to say only a few brief words about the drawing up of that affidavit. The wife of the defendant, von Schnitzler, showed me, around February 1947, a letter of her husband which he wrote from a camp - I don't know whether it was Dachau or Ludwigsburg. In that letter Mr. von Schnitzler wrote that he expected that there would be no trial conducted against I. G. Farben, that he now would have to prepare himself for his de-Nazification trial, and that he asked individual former associates to send him affidavits for use of the de-Nazification Board about certain questions and he mentioned my name in that connection, that I should draw up a survey of his international activity with the scope of Farben. By reason of my activity in Frankfurt, I had at the time some slight doubts about the optimism of Mr. von Schnitzler and, therefore, I drew up the affidavit in such a way that

it could be used for German agencies as well as for this courtroom and that is why I included so much in that affidavit.

Q. I now want to turn to some other subject.

A. May I say one more thing? That affidavit at the same time describes my own activity within the scope of those international relations of Farben. May I say that I point to that fifteen years of activity with satisfaction and a certain amount of pride, an activity which is a practical example of positive international collaboration in the economic field.

Q You mean by that that you could not be brought in connection with a war of aggression under any circumstances?

A Certainly not.

Q Another point. A paper written by Dr. Ilgner entitled, "The Promotion of Exports for the Four Year Plan" is concerned here. When Exhibit 762 was offered by the Prosecution, which is NI-1570, on page 26 of Book 61, in the session of the 26th of September, 1947, it was stated that that paper was sent to the members of the Commercial Committee, and in that connection the Prosecution mentioned you particularly as a recipient, is that correct?

A It is not correct because this paper is dated in 1937 and I became a member of the Commercial Committee only in December of 1940.

Q Then you did not learn about that paper?

A Oh, yes. In my capacity as chief of the directorate, Department Dyestuffs, which also received the Commercial Committee minutes.

Q When you read that paper, did you have the impression that that particular draft served purposes as ascribed by the Prosecution to that document?

A No, I did not agree with the facts contained in several points of Dr. Ilgner's paper. Our differences of opinion were particularly acute in the field of industrialization, and I discussed these matters at a later time with Dr. Ilgner. But all of these questions were on the level of economic theories and considerations and had nothing to do with the subject under discussion here. About the point that is decisive here I must say that Dr. Ilgner's paper, in my opinion, constitutes such a long-range planning, as far as its suggestions are concerned, that one can certainly not read into this any intention of preparing a war of aggression. In various passages it is expressly stated, for instance, that Germany with the institutions promoting its exports was not at a par with England and America. It was actually lagging behind England and America. And the appendages in this report about Latin America, the speech given to the International Chamber of Commerce, also had the character

unequivocally of a long-range planning in a peaceful world.

Q The Prosecution mentions that Farben sold their products partly below cost in order to procure foreign exchange for the purposes of the Reich Government. Did you have anything to do with the process of additional exports mentioned in that connection?

A Only as the executor of official instructions.

Q Did this additional process of exports play any part in the countries under your charge in southern Europe?

A No, the price competition and other conditions in those countries were of such a nature that the additional export process practically played no part at all.

Q And what is your personal opinion, generally speaking?

A The opinion of the Prosecution apparently was caused by a misunderstanding of the nature of the so-called additional export process, the ZAV. When the government assumed power it announced that the Reichsmark must be kept stable under all circumstances. At the time a devaluation of the currency sterling bloc had been carried out; then the devaluation of the dollar took place; later the French franc, the Swiss franc, and other currencies were devaluated. The difficulties resulting from the demand of the Government that the mark should be kept stable for German exports was something one tried to overcome, apart from other methods, but the introduction of this additional export program, so to speak. In the summer of 1945, together with some other colleagues, I worked out a detailed paper for the Bernstein Committee, and that paper, I believe, is also available to the Prosecution.

The collaborators on this paper with Mr. Borgwardt and von Heider, who made statements about the chemicals business, apart from myself, and I was informed about the dyestuffs field. Then the chief of the Central Bookkeeping, Mr. Dencker, participated. He procured the figures for the other sales combines that were not represented in Frankfurt. From this paper it can be seen that Farben contributed, by far, more to this special tasks, as this additional export program might be called, than it received

back in compensation for excess business losses. It can be further seen from this paper that the dyestuffs field participated only with a fraction in back payments.

In other words, it did not get much back. We sales people of dyestuffs can be charged with very many things, but we have never been charged, criticized, for having sold too much. And I never heard that during my twenty-five years of practical experience.

Q Mr. Kugler, under Paragraph 50 of the indictment, the Prosecution deals with you personally in connection with the statement that Germany's economic policy, and also Farben's policy, was directed towards weakening the economic potential of other countries, and in particular those countries which the Third Reich regarded as possible obstacles to the carrying out of its aggressive policy. I refer particularly to Exhibit 1015, NI-11204, which is in Book 43 of the English, on page 273, and also I refer to page 52 and page 53 of the trial brief.

A That exhibit was the subject of our motion dated 28 October, 1947, a motion about which the Tribunal ruled in the session of the 2nd of December, 1947, and therefore I have no further comment to make about it. But I want to say this. In their reply dated 17 November 1947, the Prosecution said that the two attachments to the motion were not sworn to by me. I wrote those two documents at the time according to the best of my knowledge and belief for the information of the Defense. In the meantime I read them through once more carefully, checked them over, and I would now like to state that they can be considered as sworn to by me.

Q Dr. Kugler, I should like to have you comment about the contents of that document. What have you to say about it?

A I want to point once more to Schnitzler Document 177, which is my affidavit. In that document I make statements about the attitude of Farben in general and about us dyestuffs people in particular. Our attitude towards the question of war, whether it was a defensive war or

offensive war. Particularly we in the dyestuffs field could fear nothing worse than war. After the collapse of 1918, in very tedious and troublesome labor, Farben worked out for itself a respected position in the international chemical market. In the international cartel it had a share of approximately sixty-five percent. And Farben was leading in that cartel under partners that had equal rights with Farben.

A contract which was to be enforced until 1968 guaranteed all the achievements. The share of Farben in the world production, including Japan, the United States and Russia, was not far below fifty percent during the 1930's. The dyestuffs export business of Farben, as compared with its entire business of dyestuffs, was such that Farben sold more than sixty percent of its production abroad. Any warlike involvement had to destroy this delicate building of international collaboration and had to endanger what we had achieved over a period of twenty years. We had everything to lose and nothing to gain by war. We feared nothing worse than war and we were anxious to maintain the peace. I declared that solemnly already in the summer of 1945, when the didn't want to hear it — and certainly didn't want to put it on the record. I trust that it will be heard and believed in this courtroom.

DR. SEIDL (Counsel for defendant Duerrfeld): Mr. President, at 1330 hours this afternoon a witness, Dr. Duellberg, is examined before the Commission, and I ask that my client Dr. Duerrfeld be excused from attendance this session so that he can attend the examination of the witness.

THE PRESIDENT: Permission is granted.

DR. VON METZLER (Counsel for defendant Gajewski): Mr. President, may I file a similar application on behalf of the defendant Gajewski because tomorrow the witness Schindler is going to be examined before the Commissioner. Therefore, I would ask to excuse him from attending the session of tomorrow.

THE PRESIDENT: That request is likewise granted.

The Tribunal will now rise until one-thirty.

(The Tribunal recessed until 1330 hours, 27 April 1948)

AFTERNOON SESSION

(The Tribunal convened at 1330 hours, 27 April 1948).

THE MARSHAL: The Tribunal is again in session.

DIRECT EXAMINATION (Continued)

HANS DUGLER, Resumed

BY DR. HENIZE:

Q. Mr. Dugler, before the recess we were speaking about the interrogation in 1945, NI-11204, Exhibit 1015. I should like to ask you one more thing about that. In the position which you held before the war, did you have enough information, enough insight, to be able to pass judgment on the plans of the German industrialists?

A. No; what I said before the recess was, and is, my opinion, my judgment, about the situation in the Sales Combine Dyestuffs. And in my judgment all the Vorstand members in the Sales Combine Dyestuffs agreed with my opinion. I shall mention Mr. von Schnitzler, Mr. Weibel, and also other men, some of whom I worked with for about two decades and for whom I worked, such as Wollner, Muehlen, Wolf, Weskott, Seeborn, Wiegand. Some of them were still in service until shortly before the outbreak of the war. For the other aspects of the firm I cannot give a similarly positive judgement because of my limited sphere of work. But fields of work would have thought or acted differently. At any rate, I was not competent in the summer of 1945, when this exhibit originated, to give any positive opinion one way or the other, and I left no doubt of that fact at the time.

Q. I believe we can now leave this subject. I should like to go on to another point, paragraphs 58 and 59 of the indictment.

The Prosecution deals at great length with the role which agencies abroad played in the preparation of war of aggression. Since I want to ask you something about it, I would be glad if you would indicate to me for what countries you were responsible for in respect to dyestuffs exports.

A. Czechoslovakia, Austria, Hungary, Rumania, Yugoslavia.

After the death of Kommerzienrat Waibel in February, 1945, I was also to take over the other Balkan countries; Greece, Turkey, Africa, but all this was only on paper because of military events.

Q. The foreign agencies of Farben are supposed to have been the germ cells of Nazi intrigue. How was that in your countries?

A. This charge is wrong and mistaken, in my opinion, not only for my countries but for the whole firm. I should like to say, above all, the following. If it had been the intention of Farben to use its foreign sales organization for the purposes which the Prosecution sees in it, then, for instance, Farben would not have attempted to put Jews in leading positions in these organizations—and I am thinking especially of my countries—and to keep them in these leading positions as long as possible. But these people would have been considered unreliable for such a purpose—and I hope you will interpret this word correctly as used in this context. They would have been eliminated immediately, or at least in the first few years.

On the other hand, I may point out the following state of affairs in my countries. In Yugoslavia it was in 1941 that these people were separated; in Rumania it was only in 1940, again long after the outbreak of war that changes in personnel took place. In Austria and Czechoslovakia I had people with Jewish connections working until the end of the war, and in Hungary such people were working during the war.

Q. Now, as you said yourself, in some of the sales organizations under you, you had employees who were Party members, is that correct?

A. Yes, that is true. We did not select our employees by type but for their business qualifications and their character. Some of them were Party members, but no conclusions can be drawn from that, any more than the fact of Party membership in the home office.

Q. Please tell me one more thing, Mr. Kugler. What was the

attitude of the German authorities on this personnel policy in the foreign agencies?

A. In the spring of 1934 I took over sales to these countries. Since that time, that is for about ten years, I had to work with this problem. In all these many years I had to deal with criticism and the attitude of the authorities, who did not approve of our personnel policy.

Q. I believe we can now leave this field in the direct examination because we have some documents which we can offer.

(DR. HEMZEE)

The first document which I should like to offer is No. 7, which will be Exhibit No. 8. This is a memorandum by the head of the Press Office of Farben in Berlin, Mr. Passarge; from the year 1936. He reported to his superior, Dr. Krueger, who has appeared here as a witness, about the Press campaign against Farben agencies, and the personnel policy in these agencies. A few press clippings are attached to this memorandum, which give a good picture of circumstances at that time. Because my client was in charge of these countries, this memorandum was turned over to him. Dr. Krueger made an affidavit on the 11th of March, 1945, identifying this memorandum and the clippings.

This affidavit is at the end of this exhibit.

The next document which I offer is No. 8, Exhibit 9, a clipping from the newspaper Balkan, which had a large circulation in Southeastern Europe. It deals with the employment of Jews in the Farben agency there. As the document shows, it was sent to Farben anonymously as a threat, to put a stop to these conditions. The foreign organization of the Party was also interested in these problems.

On the 15th of December, 1936, the foreign organization wrote to Farben. This is Document No. 9, which I offer as Exhibit 10. I may quote from this letter: "I must again urge you to finally carry out the unavoidable personnel reorganization within your Rumanian enterprises".

Another letter from the foreign organization is a letter dated 27 January, which is my document No. 10, and will be Exhibit No. 11. This document has already been introduced as Exhibit 77 for Ilgnar. The letter is addressed to my client and deals with a man named Mr. Bistrucianu, for whom Ilgnar had a certain responsibility.

The next document which I should like to offer is an affidavit of a former high official of the Reich Ministry of Economics, Dr. Karl Schultz-Schultius. This is Document 11 and will be Exhibit 12.

In this affidavit the affiant gives a detailed description of the

developments in the employment of Jews abroad. He says that the AO of the Party was very energetically trying to have such employees dismissed. He also says that Farben tried to keep these people whom it considered important for its export business, and he testifies that he supported Farben in its efforts, but that finally both the Ministry of Economics and Farben had to give way to this pressure. Finally he testifies that Farben then tried unsuccessfully to make such arrangements with these people that they would not lose their lawful rights.

This affidavit is an important document taken together with the following documents, which give more details.

I now offer Document 12, as Exhibit 13. In Explanation I may point out that every German exporter had to have permission from the Foreign Exchange authorities to make payments to employees abroad; that in this way, the State had absolute control over who could be paid abroad.

The Foreign Exchange office in Berlin was in charge of these questions, and this letter which has just been introduced in a general way informed German exporters that beginning in 1938, - the first of December 1938, payments could be made to Jewish employees only if a special application were made and approved.

This statement of the authorities gave occasion to Farben to report individual cases to the ministry of Economics, and to get approval. From the following documents we can see that Farben's efforts were successful in part, for as long as five years. The following documents report such incidents from this sphere of work of my client.

As Exhibit 15 I offer Document 14.

As Exhibit 16, I offer Document 15.

I have just been informed that I apparently omitted one document. I thought that I had already offered Document 13, as Exhibit 14.

Document 14 is Exhibit 15;

Document 15 is Exhibit 16;

Document 16, I offer as Exhibit 17.

These are all letters from the Ministry of Economics to Farben on such questions.

As Exhibit 18 I offer Document 17. This is a letter from the Central Finance Administration of I.G. Farbenindustrie to the Legal Department of the Sales Combine Dyestuffs in Frankfurt, where a detailed report on the situation is made.

This report is contained in the enclosed letter to the Ministry of Economics. Farben's efforts to be fair in such cases can be seen from these letters. It was only on the 21st of December, 1942, that Farben in Frankfurt was obliged to write to one of these employees, Mr. Karl Kramer in Frankfurt, and inform him that now there was no official way any longer to pay him. This notice is given in Document 18, which I offer as Exhibit 19.

Farben was not satisfied with this. The affidavit of the employee of the Frankfurt office of Farben, von Respett, shows that later another payment was made to Mr. Kramer, in this case illegally. This affidavit is Document 19, and I offer it as Exhibit 20.

The next two documents are agreements of the Farben agency in Hungary, Budenil, with two employees who are leaving the firm in this way. The first Document is No. 20 and I offer it as Exhibit 21. This refers to an employee named Meissl. The second is a Document 21, Exhibit 22. It is that of an employee named Otto Palotai. A study of these agreements shows that Farben was not satisfied with observing the payments prescribed by law, but went even beyond that.

The last document in this connection which I want to offer is an affidavit of a former employee of Farben, Richard von Silvini. It is Document 22, Exhibit 23. Mr. von Silvini himself was affected by the racial laws of the Third Reich. He gives a description of what Farben did in individual cases, of protection given to him and to other people also affected by the racial laws.

I now leave this field and shall continue the examination of the witness.

BY DR. HENZA:

Q. Dr. Kugler, the Prosecution charges that the Foreign Sales Organizations, worked in the field of Intelligence and Espionage.

A. At my orders and with my knowledge, no one did such work in the countries of which I was in charge, and I do not believe that this happened without my knowledge. At any rate, I distinctly deny the charge of having, with the agencies and firms in my countries, supported such activity. My basic attitude was that the foreign agencies had to be free of political and similar influences, and that nothing could be done which would endanger the existence of these agencies. One must always consider that almost all companies were incorporated under the laws of a country concerned.

Q. Another question, Mr. Kugler. Your name is mentioned in connection with the guardianship of National Socialist Journalists. I refer to Prosecution Document NI 715, Exhibit 817, Book 45, page 138. That is a letter signed by you. I may remark that the copy submitted here shows the signature of Dr. von Schnitzler. This is a mistake, which I already pointed out when it was put in evidence. Please comment on this letter.

A. That is true that there is such a letter. The request for taking over such a sponsorship was expressed by my countries too. I believe the wording and tenor of the document offered by the Prosecution shows rather clearly what I personally thought of the suggestion, and also indicates that I wanted to avoid this for my countries. As I remember, nothing came of it at the time. It was an attempt of the Party authorities to let young men make a cheap trip abroad.

Q. I believe we can go on. There are some charges in connection with the activity of the Rumanian dyestuffs agencies. Please tell us what was the Rumanian Dyestuffs Agency?

A. It was a firm called Romanil. Its main office was in Bucharest,

and there were some branch offices in other parts of the country.

Q. Please describe very briefly the structure of the firm and its functions.

A. Romanil, just like the agencies in other Southeastern Countries and Farben Agencies in general, had the assignment of being a connecting link between the plants and the sales headquarters in Germany and the customers throughout the world, and did what an agency normally does. It accepted orders, it sought out clients, it saw to it that the customers got the goods and the firm got the money for the goods. Like agencies in other countries, it had considerable stores, with a value of millions of marks. One of the sales principles of Farben was to keep supplies in all countries in the world in order to serve the customers as quickly as possible.

Romanil had to present the interests of the Sales Combine Chemicals, Agfa artificial silk and several other special products. There was a staff of technical men for the various Sparten attached to the Agency, specialists for chemical sales to advise the customers. An important thing for the field to which you are now going is perhaps that about 80 per cent of the personnel of our main office in Bucharest, for instance, were Rumanians, and only about 20 percent perhaps were Germans.

Q. Now there was a political movement in Rumania, of a Fascist nature, called the Iron Guard; the head of this movement was Codreanu. Did Romanil, as the Prosecution tries to prove by offering documents, support the Iron Guard financially or in any other way?

A. I was asked about this in October, 1946, in the control office in Griessheim near Frankfurt. I was questioned by two Prosecution officials. One was Mr. Acton and I do not remember the name of the other gentleman. At that time I said when asked whether such support was given, "No". I was told that there was no point in denying it, and I was told that they had proof and they just wanted to hear from me that I admitted it. I said that I did not want to admit anything that

to the best of my knowledge was not true, and then the subject was dropped and something else was brought up.

Q. Now the Prosecution has offered Exhibit 835, NI 1085 in Book 46, page 39, believing they will prove thereby that support was given to the Iron Guard. May I ask you to describe the facts, and tell us what you have to say about this?

A. This document is a letter from Farben to the Foreign Office, Attention Dr. Clodius who was the Referent of the Foreign Office for South-eastern Europe, of the date of 5 August, 1938. There are various enclosures in this letter. These refer to newspaper articles. The letter of 5 August, 1938 to the Foreign Office, would make a very good effect in a Kugler Document Book as a defense document. What the Prosecution wants to prove I have not been able to see because in this letter we are assuring the Foreign Office, and I quote from Page 4 of the last paragraph, until page 5 the first paragraph of the German text of this document:

"We confirm, after a thorough investigation on the spot, that neither we ourselves nor our agency, nor its chief, paid to Codreanu or to the Iron Guard any funds by either the aforementioned account or ordered to be paid out of our other funds". The amounts entered on this aforementioned account were merely directly or indirectly used in connection with our business activities. Further we confirm that to our knowledge the objections raised against Herr Hoeffner - who was one of the Chiefs of Romanil - by the discharged Jewish clerk concerning the financial and moral aid given the Iron Guard, and the shelter given to its members, are not justified, nor do we know at all whether individual clerks of the Romanil were members of the Iron Guard."

As this letter shows, the Foreign Office requested such a statement as a condition for our request which was to object to the Rumanian Government through diplomatic channels, especially because the important papers of the firm had been confiscated by the Rumanian authorities. If we had paid, we would not have played tag with the Foreign Office. We

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would have been exposing ourselves to a very dangerous risk, namely that the Rumanian authorities, from the confiscated documents or from witnesses, would have proof that such payments had been made and the Foreign Office would have been in a very difficult position, and would have held us responsible.

Q. Now there are various enclosures with this document which speak very positively about such support. Will you please comment briefly on these enclosures?

A. I can't make it very brief because I really want to make this incident quite clear. To do justice to the enclosed material, one must remember, first of all, the circumstances in Rumania in general, the specific events in the "Romanil" at that period, and third the general political situation. If I may begin with No. 1, everyone who knows Rumania knows that it is a beautiful, rich and lovely country, but it is a country of surprises and sensations. Difficulties in contact with authorities could come up over night, and sometimes one could not avoid the impression that the source of the difficulties not only wanted a factual explanation but wanted things to be pleasantly arranged. I will give a brief example of what I mean. In approximately 1943, the Rumanian Finance Ministry, Ministry of Economics, and the Ministry of Justice sued Farben. Farben would have had to make retroactive payments for taxes, duties, and other matters to a total of about ten million marks. Dr. Kuepper, who has already been in this courtroom, and I were given the assignment at that time for all the Farben and for all the sales combines to negotiate with the Rumanian authorities and try to settle the matter. That was done, and after rather long negotiations, we had for official payments and for unofficial payments a total of about 600,000 marks. That was still quite a lot of money, and in our opinion, unjustified, but that is the way things were in that country.

Now the second point in the conflict among the political parties of Rumania, anti-Semitism played a rather important role. Not only was Farben attacked in Germany by the Party because of its personnel policy but also in Rumania by the Rumanians. I may refer to the document, Kugler 7, which has just been introduced. This consists of a newspaper article from a Rumanian newspaper at the end of 1936. This article says that a certain Frederick Schaeffer continues to be one of the heads of "Romanil." It says that Schaeffer is related with the communist

politician, Anna Pauker, living in Moscow. That was his sister-in-law. In 1938, two years after this newspaper article was published, we severed our relations with Mr. Schaeffer on a friendly basis. He was given a retainer and a pension and was able to go to France with his family. Schaeffer's departure in 1938—that is the year when we are supposed to have supported the Iron Guard—made quite a disturbance. The sister-in-law, Anna Pauker, has for the last six months been foreign minister of Rumania. I hope that the prosecution after my having described these circumstances will not suspect that I supported some other political parties in Rumania too.

In the third place, one must consider that in 1938, in the entire Balkans, there was great nervousness. In March 1938, there was the Anschluss in Austria. Shortly after that, the German-Czech tension began. In the course of these developments, the Iron Guard was active in Rumania, and there was reaction of the other Rumanian parties. Simultaneously, there was increased activity of the so-called boycott movement against Germany and against German goods. Farben, as the greatest exporting firm of Germany, was a welcome target for this boycott movement. They shot at Farben and wanted to hit at National Socialism and its economic interests. From this whole atmosphere, there resulted the malicious rumor of the support of the Iron Guard as to where it originated. Who was behind it, we never really found out. We merely had to deal with the unpleasant consequences.

Q. And what finally happened to this law suit?

A. It was stopped. Romanil got its files back. His Majesty, the King, was satisfied. He is especially mentioned in the enclosures here. One of the defense counsel, who is not here today, talked to the King's lawyer in Constanza, I believe, and made it clear to him that we were nice, harmless people, and decent international papers printed denials. Unfortunately, it was not possible to get excerpts from these papers in time, but an indication is given in the material which the prosecution turned over to the defense before the beginning of the trial. This

included the mail conference minutes in Berlin, No. 132 of 10 January 1939. That is Document NI-5759, where it says under No. VIII, 2, and I quote: "UNESCO Affair: The Neue Zuercher Zeitung has printed a correction of the wrong report made at that time."

Q. I believe we can leave this subject now. I should merely like to offer one more document in this connection which is my Document 23. I offer it as Exhibit 24. It is an affidavit of the former employee of the legal department of Farben in Frankfurt, von Rospatt. I should like to quote merely one sentence from this affidavit: "I found that the suspicion by the Rumanian authorities was in no way substantiated." Mr. Kugler, the prosecution deals with the contributions made by Farben. Since you were not on the Vorstand, we need not go into this. Because of your work in 1938 in Czechoslovakia, I should merely like to ask you: did you have anything to do with the approval of the contribution of 100,000 marks by the Sudeten German Relief project?

A. No, that was not under my jurisdiction.

Q. Did you hear about it afterwards?

A. Yes, I did. I cannot tell you the exact date.

Q. Did you hear anything in the course of your work which indicates the purpose of this contribution?

A. No. I was convinced that it was for purely charitable purposes; that is, that it was to help out the refugees in their distress; that in those weeks and months, many Sudeten Germans fled to Germany, I had not only read in the newspapers but I had more direct evidence of that.

Q. You are referring to a letter which you received at the time?

A. Yes, Document 27.

Q. This letter which confirms what my client has just said is my Document 27 from Document Book II, which I offer as Exhibit 25. Mr. Kugler, it is said in the indictment that directly on the heels of the invading German armies, there followed the functionaries of Farben. In the fall of 1938, you went to Aussig. Do you have anything to say about your work at Aussig?

A I don't know whether I am supposed to be directly affected by this passage in the indictment. In the event that it does refer to my work at that time, I should merely like to say that even if I had taken over such a position on behalf of the RWM, I considered it my duty to see to it that there would be no interregnum between the occupation and my arrival. It would have been difficult to justify myself if I had arrived a week or ten days later, and if in the meantime in the two plants or the three mines some emergency had arisen. There were about 4,000 people employed in the factories and mines. The purpose of the Commissariat was to preserve the jobs of these people and to prevent any fanatical conditions which might have been preceded.

Q I shall come back to your work as Commissar at Aussig later. I should now like to speak to you about the situation before that time. The prosecution has offered the minutes of a meeting in Berlin on the 17 of May 1938, when the head of the Czechoslovakian dye stuffs agency, Mr. Seeborn was present. These minutes were offered as Exhibit 833, Book 46, Page 29. Another Prosecution Exhibit 1612, Book 46, Page 93A has reference to this previous exhibit I have just mentioned. You were not present at this meeting, but since Mr. Seeborn was head of this sales company in Czechoslovakia and consequently subordinate to you, I should like to ask you briefly to comment on this.

A The prosecution obviously attached great importance to these minutes of the meeting of 17 May 1938. This meeting has been brought into connection with events and dates, and as I understand it, the prosecution sees therein proof of participation in planning of aggressive action. In General Taylor's opening statement for the prosecution, Page 113 of the German text, he emphasized that I was present

at this meeting. You have already said that I was not present; that this is a case of confusion of names.

MR. SPRECHER: Just so there is no mistake: I think the prosecution has made its position on that point clear. We did initially make a mistake because of the unlaut over another gentleman's name, who is Kuegler and not Kugler.

THE PRESIDENT: Yes.

THE WITNESS: In order to realize how significant or insignificant these minutes of the meeting of the 17th of May 1938 are, one must consider first of all, the tension in German-Czechoslovakian relations, which did not start in 1938 but several years before that, and the situation which resulted from this tension for the German agencies including the Tefa in Reichenberg, Mr. Seebohm, who was mentioned in these minutes, was the head of this Tefa firm in Reichenberg, the dye stuffs sales organization of Farben in Czechoslovakia. One must also consider the difficulties under which the Tefa was laboring at the time in relation with the Reich and the Party agencies. Third, at that time the Party policy with respect to the employment of non-Aryans was being intensified, and this was having its effect in foreign branches of German firms. One must especially point out the consequences in Austria. We will come back to them later. Finally, the situation in Czechoslovakia in May 1938 must also be considered. I may perhaps explain the four points. As a result of the political tension between Germany and Czechoslovakia, the Czech Government -- I believe it was in 1936 or the beginning of 1937 -- passed a so-called State Defense Law. The law was obviously directed against Germany. According to this law, certain enterprises in Czechoslovakia could be declared war essential. I believe they were then called "M" enterprises. That was the term used

in the law. Tefa was declared such an "M" enterprise. For such enterprises, there were very important restrictions on general business and personnel. That affected especially foreigners; in our case, Germans. The danger to Tefa through this law was so great that in 1937 -- I believe it was 1937 -- we were obliged at a cartel meeting to ask the Prager Verein with the Prague Government to help us -- or rather the Tefa -- and this was done, and conditions were somewhat alleviated. But the whole organization of Tefa was, so to speak, sitting on a ball of gun powder. This was the occasion for a certain nervousness in Tefax. There was something else too. Not only did the Czech authorities consider Tefa as under suspicion, but also the German Party officers did, because Tefa or Farben kept old employees who fell under the so-called Nurnberg Laws and because the Tefa, as a corporation under Czech law, had to be careful and observe the laws of the country, because the management of Tefa had only one desire, which was to conduct its business and be left in peace. It was considered in Party circles, as the expression was: a liberalistic oasis and politically unreliable. It went so far that the German consul-general in Reichenberg in 1937, when a complaint was filed by a Sudeten German, sent a letter to the Frankfurt Gauleiter with his official seal and told the Gauleiter in writing that all these accusations were correct. The former Sudeten German delegate in the Czechoslovakian Parliament, a Professor Jung, wrote to the Frankfurt Gauleiter about the same matter and said in his letter that it was time to air out such places once and for all.

Q. You have referred to documents which I should like to introduce. I should like to do so now. Document 24 I offer as Exhibit 26. This is an affidavit of this Mr. Seeborn about the conference of 17 May 1938. He uses the word "dilettantism" in connection with this conference which I believe needs no explanation. As Exhibit 27 I offer Document 25. That is this letter which has just been mentioned from a certain Mr. Kotschwar to the Gauleiter of the Party in Frankfurt in the year 1937. The next document, 26 I offer as Exhibit 28. That is this letter of Professor Jung.

Mr. Kugler, now that we have brought these documents to the attention of the Tribunal, please tell us what you can about these incidents.

A. Before I go into points 3 and 4 which I mentioned earlier, I should like to make one preliminary remark. In one of the documents that you have just introduced there is a handwritten note by Gauleiter Sprenger on the original. An adjutant Kugel is written to. Since there have been some mistakes here, the man's name is Kugel, not Kugler. That is somebody else.

These documents just introduced are dated at the beginning of 1937. It has already been said that in the year 1937 the policy of the Party with respect to the employment of non-Aryans in foreign agencies had been intensified. Mr. Mann has introduced some documents on this subject, especially an article about the speech of Goering. I believe it is Document Mann #286, Exhibit 78. In Czechoslovakia and in Austria and in other countries too, Farben continued its previous personnel policy. In March 1938, after the occupation of Austria, that led to the events already described in this room, namely that at the end of April or beginning of May 1938, the new Austrian authorities in Vienna appointed commissars for all Farben enterprises in Austria, including the Vienna sales organization which was under me. Mr. Seeborn knew that I had gone to Vienna at the beginning of

May in order to investigate this situation, together with some other man, and to clear it up. Finally, in the fourth place, there was the consideration that the situation in Czechoslovakia at that time - that is, in the spring of 1938 - was very alarming. Konrad Henlein, who later became Gauleiter of the Sudeten Gau, on the 24th of April 1938 in Karlsbad in Czechoslovakia, made a speech which caused great nervousness in the whole country and the result was that on the 21st of May 1938, Czechoslovakia for the first time mobilized against Germany and saw the danger of war on the horizon for the first time. In this atmosphere as described in points 1 to 4, Mr. Seeborn came to Berlin in May. The immediate occasion for his trip, as far as I recall, was negotiations with the RHM, the export promotion department of Zofl and the Agfa rayon sales, I believe. He spoke about the general situation with Dr. Frank-Fahle who was a shade more nervous than Mr. Seeborn, and together with Mr. Seeborn he decided that something must be done to do something at the last minute. That was the background of this meeting of 17 May 1938. When I got back from a trip and read these minutes I had a discussion with Mr. Frank-Fahle and Mr. Seeborn.

Q. What do you mean?

A. I reproached these two men because, for territory - that is Czechoslovakia - for which I had to represent the greatest sales volume in Czechoslovakia and for an organization - namely TEPA - for which I was responsible, they had held a conference during my absence and without my knowledge, even with good intentions and under the impression that there was a need for haste. If I had foreseen events ten years later I would have been more energetic in my dispute with Berlin about jurisdiction and I would have demanded that the minutes be recalled.

Q. Mr. Kugler, what did you yourself, as head of the sales for Czechoslovakia, do in the following months with respect to your sales interest in Czechoslovakia?

A. As head of the dye stuffs sales business of Farben to Czechoslovakia I was, of course, impressed by what had been discussed publicly in the German and foreign press. I was responsible for considerable property of Farben. The dye stuffs business of Farben in Czechoslovakia in good years amounted to about twenty million marks a year, and at that time when the depression had had its effect, the business was still over ten million marks a year. There were outstanding accounts and supplies of goods. I took steps to liquidate the accounts and we set up stock piles along the border to prevent those in Czechoslovakia becoming larger. In short, I did what one would naturally expect a careful business man to do in such times. These were measures which I had missed in this record of 17 May.

Q. Mr. Kugler, I believe we can leave this meeting now. There's just one thing I would like to speak about. At that time the Vowi of Farben made a report on Czechoslovakia. The prosecution says therein is proof that the important men knew about the alleged intentions of the government.

A. Quite generally speaking, I am convinced that Vowi knew no more than I myself, what was published in the papers at home and abroad and what was publicly discussed. As for this report, I assume the prosecution means Exhibit 1042, NI 10408, Book 51, page 98 of the English. This is a so-called description of the firm of the Prager Verein. I have tried to get a copy of the economic handbook Kompass. This is a reference book for South-eastern European industrial firms. Unfortunately I was not able to get it in time. If it were available one would find that this Vowi report corresponds fairly accurately with the information in the Kompass and was simply copied. At that time another report was put out by Vowi, an article dealing with chemical economy in Czechoslovakia. This is Report 29/17 of June or July 1928, an excerpt of which will be introduced as Kugler Document 56. This document shows the theoretical and academical character of

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another type of Vowi work. Vowi, as a scientific institute of a big industrial enterprise, tried to prove its efficiency by following the news of the day and on its own initiative making such reports, but it would not be correct to see behind such reports considerations of business policy or orders from the management.

THE PRESIDENT: Counsel, it is time for recess.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

BY DR. HENZE:

Q. Mr. Kugler, we just talked about a few drafts prepared by the Vowi. I don't want to go into Count 2 of the indictment but I consider it expedient in that connection to ask you this. The prosecution contends in Paragraph 96 of the indictment that Farben had Farben had integrated the Czechoslovakian chemical industry in its own organization. Can you say anything about this in regard, particularly to the VOWI?

A. This is an incorrect description of the significance of the plant Aussig-Falkenau within the scope of the Czechoslovakian overall chemical industry. The number of people employed in the Czechoslovakian chemical industry in 1938 fluctuated between 40 and 45 thousand people. That is going to be shown by Document No. 56 that we are going to introduce. The number of employees working in Aussig-Falkenau was a little more than 4 thousand people. Compared with the number of employees, the Aussig-Falkenau plant constituted approximately 10% of the Czechoslovakian entire chemical industry.

Another method of measuring this would be the turnover of the chemical industry. That turnover of the chemical industry in Czechoslovakia in the narrow sense amounted to approximately 1.5 or 1.6 billion Czech crowns. The turnover of Aussig-Falkenau without the turnover of Poland amounted to approximately 300 million Czech crowns. We shall deal with that figure later.

These 300 millions compared in proportion to the 1.5 or 1.6 billion overall turnover constitute approximately 20%. When one makes these comparisons, one must take into consideration that Farben took over only one-half of the two participations in Aussig-Falkenau and the Chemical Fabrik von Hayden took over the other half. I think that answers the question.

Q. In Paragraph 76 of the indictment the prosecution again speaks about the contribution of 100,000 marks for the Sudetan German Relief program

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and it calls this contribution as having been given for the financing
of border incidents. Can you contribute any facts by reason of your parti-
cular knowledge on the conditions of the country?

A. I already stated before that I was firmly convinced and still am convinced today that this contribution was made for purely charitable reasons — that is for alleviating the distress of the refugees. There were refugees — there was a great amount of distress — and if the government made an appeal for contributions then it may have pursued some political purpose next to the relief intention, for the general public was shown a certain emergency that existed and thus the people were shown clearly that something had to be done in this emergency. One killed two birds with one stone, so to speak, for on the one hand the State budget was not encumbered particularly by this action and on the other hand the public was informed and influenced in the proper respect. I consider the opinion erroneous, however, that this money was used for military purposes. First, on 22 September 1938, the date when the contribution was made, it would have been rather late to collect or procure funds for such purposes for the clashes and the old war had already started. But for the rest I want to say this. In his Reichstag speech in the early days of September 1939, after the Polish campaign had started, Hitler explained to the astonished and severely affected German people that he had put ninety million Reichmarks into rearmament, if I remember correctly. Whether Mr. Hitler, in 1938, wanted to stage border incidents in the Sudeten-German area or not I cannot say positively. I won't assume so. But if he had wanted to do this and if he wanted to do so then in view of such an expenditure of billions of Reichmarks, in my opinion, he certainly didn't have to rely on procuring one hundred thousand marks from industry in his collection box.

Q. I believe we can leave this subject matter now. I want to discuss with you the subject matter entitled "New Order." I refer to NI Document 11252, Exhibit 1051 in Book 51 on page 155 of the English. Was this draft at the time prepared upon official request?

A. Yes. This can be seen from documents which the prosecution has submitted itself. I particularly refer to the invitation of Schnitzler of 24 June 1940; to participate in the Commercial Committee

meeting of the 28th and 29th June 1940; NI 4897, Exhibit 1049, Book 51 on page 130 of the English, and to the minutes of this Commercial Committee meeting, NI 6295, Exhibit 818, Book 45 on page 140 of the English. For the rest, Mr. Schlottner, during his examination in this courtroom, on 26 and 27 January 1948, made unequivocal statements about this question.

Q. Who collected the data and who prepared the draft that was presented to the economic ministry by Farben?

A. Very many people participated. This draft of 3 August 1940 and various supplements that were made later were the result of teamwork. The directorate secretaries of the various sales combines participated. The various legal departments took part. The sales departments themselves interested in particular passages helped. The traffic departments participated for customs questions, and so on. All of these offices suggested and submitted certain drafts that were discussed in various meetings. They were edited. They were corrected by the WIFO and finally what is now called the New Order Plan, or Projekt, resulted.

Q. Did you yourself help in the drafting?

A. Yes. I was particularly concerned with the drafting of the dye-stuffs part, but I also helped in a few passages of the general part.

Q. Did you do that from your own initiative or upon instructions.

A. The cooperation was a part of my duties in the directorate department of dye-stuffs. In that respect I participated as a result of directives.

Q. Then you helped only in a very limited part of the so-called New Order. Are you nevertheless in a position to give a more general survey about the nature of this document? I think it would be helpful to clarify a few assumptions of the prosecution which have not yet been referred to.

A. Yes, I believe that I might be of some help in that connection.

Q. One general question. Would Farben have been able to evade the request of the government that this material be furnished?

A. In my opinion, no. In view of the exposed position of Farben an outright refusal would have constituted a demonstration and it would have

had all sorts of consequences. To expose one self to such consequences seemed of little value or not recommendable at the time, at least. But quite apart from that, one had to ask one self whether, in case Farben kept out of this completely, the danger would not have arisen that excesses and nonsense would have been incorporated in such plans and projects from third parties. In regard to the criticism of the Reich Ministry of Economics about suggestions made by other persons or agencies, for instance the Document of the prosecution NI 6955, Exhibit 1053, Book 51, page 208 of the English helps in understanding this. That is a letter of Mr. von Schnitzler to the Commercial Committee dated 22 October 1940 about the result of a conference with the Reich Ministry of Economics to Dr. Mulert. I quote: "It is evident that our program for France was received very favorably by the official agencies. It was not so much that this program would now have to be that of the government too, but they recognized that among the confused mass of suggestions from the Reich and economic groups, Chambers of Commerce, and so on, it was one of the very few documents which gave the Reich Ministry of Economics clearly formulated and well thought out proposals for practical purposes."

Q. You just spoke about excesses which you feared that third parties or other agencies might perpetrate, and with that you gave the reason why Farben participated in this draft. May you give the opinion that Farben kept within reasonable circuits.

A. I would say that the suggestions made by Farben, as far as I am in a position to judge, were neither of an excessive nature nor were they absolutely unreasonable from an economic point of view. As far as one can start by applying two different yardsticks for criticism from the so-called general part of the draft of 3 August 1940, two basic motives arise. First the European order in the chemical field was to be arranged in such a manner that the best possible production be achieved, which would give the prerequisite for an increase in the living standard of all participating countries. Secondly, I quote from page 112 of the German text: "It will no doubt be impossible to resume where we left off at the outbreak of the

World War. Neither can we reduce to its original state the economic development which, in the last twenty years, has taken place in the various countries or areas to the detriment of Germany. It will be necessary, therefore, to a certain extent, to accept the deterioration of the German position in comparison with 1914 as being irreparable." Together with this passage one must understand the remark in the accompanying letter to Schlottner where it is stated under paragraph 1, sub-section B, "To regulate the productive forces of this sphere accordingly by planning rational utilization of the existing production facilities and to adjust them to the present requirements and to foreseeable requirements of the future in such a manner that particularly mismanagement of available manpower and capital may be avoided." I am personally to some extent responsible for the incorporation of these two passages.

Q.- Can you tell me what you meant by those words, "mismanagement of available manpower and capital"?

A.- The new plan touches upon the entire problem of the European economic history between the end of the First World War and the beginning of the Second World War. This period of approximately 20 years, was characterized in Europe by an over-increasing turning away from the principle of the free exchange of commodities; whereas in the course of the development of technical trade communications, the world moved closer together during the past decade, the European countries, from an economic political standpoint moved further away. Goods and human beings too did not circulate more quickly or more easily than could be expected from the progress of airplane and radio. In regard to whatever the technical achievements helped to overcome in the obstacles of time and space, was made null and void by newly erected trade barriers. In the course of these developments, very many new plants were industrialized. In the bad sense of the word, human beings and capital were mismanaged from an economic point of view, and the yield of the European economy was decreased to the detriment of the exchange of commodities, and the standard of living.

The causes for this development cannot be brought to a common denominator. During the years up to 1929-30, they were different causes than after 1930, in connection with the international economic depression that started at that time. The effect of the development on the whole, however, took the same trend. What I am saying here may not be plausible to American ears, and it may sound somewhat strange to them. Perhaps I can make this more understandable if I use a somewhat rough example.

If somebody in the State of Texas had suddenly gotten an idea to say, "Up to now we have used automobiles manufactured in Detroit." I believe that is in Michigan. "Why shouldn't we now build our own automobiles. Let's close the border of Texas and produce our own automobiles in the future."

The Senate or the House of Representatives would at least shake their heads about such an idea, but within the circle of sovereign states in Europe, for 20 years, in principle the same thing was done and this nonsense was called, "Trade Policy". Such conditions we had in mind when we pointed out to the avoidance of new mismanagement of manpower and capital, and this was also meant when for instance on page 23, of the German text, it is stated in regard to France, and I quote:

"As a matter of basic principle, therefore, we are of the opinion that the French Chemical Industry should retain its own existence in the coming New Order, but that the artificial barriers which have been erected against German import by means of excess import duties, quotas and the like, should be removed. It will be likewise necessary to base ourselves on the premise that in general, exports of the French Chemical Industry should be maintained only by way of exemption, and in so far as they had already, ordinarily been established. That is prior to the beginning of the world economic crisis."

Q.- Are the suggestions for the regulations of customs and imports based on such considerations?

A.- On principle, of course, arrangements of customs, duties and imports were the instrument of this mismanagement of the industrial policy. In the case of one or the other suggestion contained in the appendices of this document one might contend that one sort of protection is abolished to be replaced only by something else of a German nature, but even if one was able to find such an example, at first one must understand this: The final clarity as to whether or not such a crisis is correct in an individual case, could only be gained if one investigated how the trade policy and the customs regulations would affect the country concerned and the products concerned in the course of the two decades. One would have to know what that particular department chief who made the suggestion thought when he made the suggestion on the basis of his detailed knowledge of

the circumstances.

It was impossible either for me or for my dyestuffs field or other fields, in view of all of the limitations of time, and technical difficulties, and in view of the completely displaced staff of collaborators at the time, to check each particular item of customs and imports suggestions, to reconstruct and to find the reasons for them, what have been the motivating factors in each case.

In my opinion it is decisive at any rate, that one can detect the basic idea from this plan. These suggestions, by the way, were only bases for the suggestions and negotiations to be conducted with the countries concerned. Still today we are at the stage where suggestions only are made for alleviating the economic difficulties, and for every plan there is a criticism, and the criticism runs the danger of going wrong, if individual details are taken out from the contents, and if the underlying motive is not taken into account sufficiently.

Q.- Was this plan purely economic?

At one point, - I do not remember the passage, - some military aspects are mentioned. Can you comment on that?

A.- I want to explain what I understand by it. Farben has been charged also in this room that in view of its international relations, and in view of its attitude for international cooperation, Farben was not completely reliable in the sense of the regime at the time. In my opinion that reference, so to speak, was to be a precaution that the draft might possibly be evaluated, or not be given the proper value in view of such criticism. I conclude that particularly from the fact that this emphasis on the military economic aspects, was brought in connection with the passage of cartels, licenses, exchange of experience and so on. Those particular points from which the ill repute of Farben emanated.

Next to this intentional precaution it is of course that all measures

had to be in compliance with the regulations of this state, demanded under the general subject matter of Security.

Q.- One point seems to need more explanation in that connection. That is the opinion that has been presented here that this plan rejected what Farben had been preparing for a long time, and had been endeavoring for a long time to accomplish. Please comment on that briefly.

A.- In answering your question, for instance, I want to refer to the Commercial Committee minutes of the 27th of May, 1940, which the Prosecution offers as NI-5951, Exhibit 931, in Book 49, on page 153. I do not know if this is the English or the German page. This meeting is the one that took place after the occupation of Denmark and Norway, and after the conclusion of the war with Belgium and Holland, which took place at approximately the middle of the French campaign. The objective reader of such minutes can in my opinion not get an impression that conspirators are taking cognisance of a situation which meant a long omitted realization of their plans. From this record one can see that one was confronted with an unexpected situation, with unexpected problems and that generally one was surprised.

Q. What you have said at the end, does that also apply to the expression or the conception of "Grossraum?"

A. Absolutely. As far as I could judge that from my activity within the sales combine dye-stuffs, nobody in Farben endeavored to create a political "Grossraum"—a large sphere of interest. The idea of an economic "Grossraum" in Europe in the sense of the ideas of Kuttner-Kallergi, I considered reasonable already 20 years ago and I consider it more significant than ever today. From the emergency at the time as it developed in the economic crisis from the 1930's on, Farben took up the idea of a large sphere of interest in economics; for instance, in the trade political collaboration with the southeast European countries. None of the countries participating fared ill in that connection. The war, of course, and its results destroyed everything. If Europe is to recuperate, one will have to find new forms, quite apart and irrespective of the leader, and one is looking for such a leader at present.

Q. Mr. Kugler, it is contended that it was Farben's aim to integrate into its own business all of the chemical industry of Europe. Did you have such ideas when you drafted this paper?

A. That is completely erroneous in my opinion. From the perspective of my field of work, nobody thought of such a thing. What had been provided for the immediate future was caused by the events of the war. If one accepts the concept of the prosecution of the word "long-range aim," then it was the aim to create a reasonable order in the economic relations with other countries and to achieve the best possible production conditions in Europe. The plan in its basic attitude on the basis of the conditions that applied at the time or that could be expected, tried in the sector of chemistry to contribute suggestions for the disjointed system of the international exchange of commodities, just as today solutions are still being looked for.

Q. In conclusion of the examination about this subject, I want to ask you this: in the indictment it is stated that it was endeavored to

gain sovereignty over the chemical industry of the United States. At another place of the presentation of the evidence by the prosecution, I find that even military considerations, particularly in connection with Latin America, were decisive. May I ask you to comment on that also very briefly?

A. In my opinion, this is just as incorrect. Sovereignty over the chemical industry of the United States was never and nowhere endeavored or approved or even only considered possible in this plan. In respect to the United States, it was pointed out that the economic potential in the United States in this war — at that time the United States had not yet entered the war—that this economic potential had increased. It was stated that it would need the entire and conjoint effort of Europe in order to secure the economic position in a later economic competition with the United States—the economic and peaceful competition with the United States which was necessary for the maintenance or the improvement of the living standard of Europe. The estimation of the ratio of economic powers expressed in this plan of the large producer countries was basically correct. The reference was also correct to the economic deterioration of England's position, quite apart from the result of the war. The further course of the war and the entry of the United States into the war justified and in a very moving manner proved the correctness of the attitude that was expressed at the time in the sense that Europe not only would have a difficult position towards the economic potential of the United States but also that today Europe can live only with the assistance and support of the United States.

Q. About this subject, I have nothing further that needs clarification. I want to go on and turn to the events which took place in Austria in the spring of 1938. In the opening statement, the prosecution mentioned that in May of 1938 you had been in Austria and that you had visited Seyss-Inquardt in view of the acquisition of Skoda-Wetzler.

A. That is incorrect. I was neither concerned with the

acquisition of Skoda-Wetzlar nor do I know Mr. Seyss-Inquardt. It is correct that in May of 1938 I was in Vienna together with a few other gentlemen in order to remove the difficulties of the dye-stuffs field that arose at the time. The difficulties have been mentioned repeatedly: it was the appointment of commissars by the Austrian Government agencies for all Farben participations and enterprises in Austria. In these conferences, it was my task to remove the difficulties of "Detag"—that was the dye-stuffs agency in Vienna. What I did at the time, with whom I talked, and what I caused to be done, I have testified to in a very detailed interrogation when I made statements to Mr. Rudolf of the prosecution at the end of April or the beginning of May 1947. It was set down on paper, and that record is available, and the record confirms what I stated here in all parts.

Q. If I understood you correctly, you were in Austria merely to safeguard the interests of the sale of dye-stuffs, is that right?

A. Yes.

Q. Did Skoda-Wetzlar manufacture dye-stuffs?

A. No.

Q. In connection with Austria, you are mentioned at another place. I refer to prosecution's document NI-2547, Exhibit 1095, in Book 53 on Page 19. There are two file notes of Dr. Fischer about conferences with Director-General Philipp of the Dynamit-Nobel, A.G., Pressburg. One of the memoranda deals with the resignation of the manager up to that time. The second memorandum deals with the commercial questions regarding various products. This latter memorandum bears your name on the distribution list. I ask you to please comment on this latter memorandum and to tell us at the same time whether you had anything to do with the other questions that were mentioned.

A. I received the second memorandum mentioned by you. It dealt with products that were manufactured by the plants of Aussig-Falkenau. When this memorandum was written I was the commissar of Aussig-Falkenau, and in that capacity, that memorandum was sent to me. It deals with the settlement of details that are not of any interest here.

Q. Then I understand you to mean that you had nothing to do with the other memorandum and particularly with the questions of the resignation of the then management of Dynamit-Nobel A.G., Pressburg?

A. That is correct. The other documents were addressed to the South-eastern European Committee of which I was not a member at the time.

Q. I now turn to the Aussig-Falkenau problem. First of all, I want to deal with the questions which arise from your position as commissar of these two plants. Please describe the circumstances under which you were approached with the task of taking over those two plants?

A. I cannot give you the exact date any more. As far as I remember, it was in the second half of September 1938. Unfortunately, I have not the documents at my disposal any more. I mean the various documents that I have talked to you about and which are mentioned in a question of the prosecution on the 25th of September 1947, files and documents which were in Frankfurt in my private office at the time and which were then made available to the Bernstein Committee and which were not transferred to the archives in Griessheim. The prosecution does not have these files either so that they probably were lost. At any rate, I was informed at the time by Mr. von Schnitzler that it was intended that the question of the fate of the Sudeten German plants of the Prager Verein be discussed with the Reich Minister of Economics. That any sort of international arrangement was going to be made in regard to this Sudeten German Territory was quite clear and could be expected on the basis of the circumstances and reports at the time. May I include a few dates here that may be essential for evaluation of the entire situation. On the 21st of July the British Government suggested

to the German and Czechoslovakian governments that Lord Runciman be sent to Czechoslovakia for studying the problem and to have him render an expert opinion on the suggestion. On the 25th of July the Prague government agreed to this suggestion. On the 3rd of August Lord Runciman arrived in Prague. On the 18th of August and on the 28th of August Lord Runciman negotiated in Czechoslovakia with Konrad Henlein, among other people, the leader of the Sudetan German Party and the subsequent Gauleiter of the Sudeten Gau. On the 2nd of September Lord Runciman sent a message to Hitler which suggested an intervention of England to settle the dispute and which permitted one to hope for a compromise. On the 15th of September Chamberlain visited Hitler on the Obersalzberg in order to discuss the Sudeten question. On the 21st of September Runciman's report was published. On the 21st of September Prague agreed. On the 22nd of September Chamberlain again visited Hitler at Godesberg. On the 24th of September a German counter proposal memorandum was submitted, and on the 25th of September Prague rejected that counter proposal. On the 26th of September the mediating telegram of the American President Roosevelt was published and on the 28th of September invitations were sent out for the Munich conference. I included these dates in order to illustrate the atmosphere in which one lived for the past weeks and months at the time. That something was afoot was in the air, but it wasn't the air that Forben was infiltrating by a pipeline of conspiracies, but in the air which everyone was able and had to breathe that read the newspapers or listened to the radio, and in the light of this time table the document submitted to Dr. Warster in cross examination, NI 15060, Prosecution's Exhibit 2121, probably gets a different character. That's the minutes of the Vorstand meeting of the 16th of September. These are minutes which were recorded one day after Chamberlain's visit on the Obersalzberg.

Now, in order to come back to your question about the course of my activity as commissar and the course of my appointment, it was such that after the preceding tensions and confusion it was to be assumed that the

Prager Verein, at least during a temporary transition period, would not be able to operate the plants in the disputed district from Prague. Therefore, as I was informed, it was intended to make the suggestion to the Reich Ministry of Economics that, until the situation had been clarified, a commissar should be appointed as a manager. It was intended that this managing commissar should operate the plants without prejudice to the question of property or ownership and that it should be operated at the expense and for the profit of the parties concerned. I was then asked as to whether or not I was ready to accept such a position if it were offered me.

Q. Who asked you?

A. Mr. von Schnitzler.

Q. Were those ideas that you have just described at the time presented to you or did you deliberate on them yourself?

A. I can't say that today any more whether that was presented to me in the same words as I have spoken just now, but, on principal, the picture was the way I have just described it.

Q. What was your answer to the question?

A. I said that I would be available for such a position.

Q. How did it come about that Farben interested itself at all for the fate of the Aussig-Falkenau plants and how did it come about that apart from a technical commissar one provided that you might take over the position of a commercial commissar?

A. About the first question I can repeat only what I stated at the end of April and beginning of May 1947 when interrogated by Mr. Rudolf and which statements were set down on the record, and that means I am convinced that Farben would not have bothered about those two plants at all if the Verein had not also produced dye stuffs next to chemicals. Since 1934 there had been an agreement with the Verein. This agreement was not concluded with Farben, but with the Tri-Partite cartel. Next to Farben, the Swiss and French dye stuffs industries participated directly and the British dye stuffs industry participated

indirectly in this agreement. It was one of the so-called side agreements of the international dye stuffs cartel, and the cartel and side agreement had been the international market system which had been built up from 1927 on. In this market system there were agreements about definite and particular countries. For instance, for China, British India or South America also the American producers participated in this cartel and side agreement. Whether justifiably or unjustifiably one saw the danger that one stone might be taken out of this building and that as a result this market system might be seriously endangered, and in that connection it was not the absolute extent of the Czechoslovakian production up to that time that we were concerned so much about, but the concern based on experience that even with a relatively small volume of production, if operated by an unreasonable competitor, much china might be smashed.

DR. ASCHENAUER (Defense Counsel for Defendant Gattineau): Mr. President, I ask that the defendant Gattineau be excused from the session tomorrow afternoon and the day after tomorrow in order to participate in the Commission.

THE PRESIDENT: Very well. It will be permitted.

The Tribunal will now rise until 9:00 o'clock tomorrow morning.

(A recess was taken until 0900 hours, 28 April 1948.)

CERTIFICATE OF COMMISSIONER

Under directives of United States Military Tribunal No. 6, testimony of witnesses listed below was required to be taken before the undersigned Commissioner. Pursuant thereto the said Commissioner has conducted hearings at which the following witnesses have fully testified:

<u>Date</u>	<u>Name of Witness</u>	<u>Official Transcript</u>
8 April 1948	Walter Warlimont	10875-10907
9 April 1948	Kurt Krueger	11128-11163
12 April 1948	Karl Weber	11165-11175
12 April 1948	Paula Ester	11177-11199
13 April 1948	Ernst Struss	11293-11338
14 April 1948 &	Christian Zahn	11144-11190
15 April 1948	" "	11587-11612
16 April 1948	Bernhard Schoener	11706-11723
19 April 1948	Adalbert Feindal	11827-11841
20 April 1948	Josef Grobel	11842-11860
20 April 1948	Gustav Piater	11861-11878
21 April 1948	Emil de Haas	12098-12128
21 April 1948	Heinrich Schuh	12129-12140
23 April 1948 &	Heinrich Schindler	12337-12370
28 April 1948	" "	12707-12777
26 April 1948	Walter Kikuth	12461-12488
26 April 1948	Hans Seuer	12500-12512
→ 27 April 1948	Wilhelm Duellberg	12598-12621
29 April 1948	Theo Goldschmidt	12871-12909
29 April 1948 &	Anton Reithinger	12910-12953
30 April 1948	" "	13075-13092
29 April 1948 &	Rudolf von Spretty	12954-12960
30 April 1948	" "	13065-13075
30 April 1948,	Rudolf Schmidt	13093-13133
5 May 1948 &	" "	13620-13629
6 May 1948	" "	13651-13719
3 May 1948	Wolfgang Alt	13246-13269
3 May 1948	Carl Gadow	13271-13291
3 May 1948 &	Kurt Hartmann	13292-13316
4 May 1948	" "	13412-13450
4 May 1948	Fritz Dion	13450-13460
4 May 1948	Kurt Eisfeld	13461-13479
4 May 1948	Adolf Taub	13480-13489
5 May 1948	Ernst Struss (for Pres.)	13566-13619
6 May 1948 &	Werner Schmitz	13720-13735
7 May 1948	" "	13861-13891
10 May 1948	Max Winkler	14173-14181
10 May 1948	Fritz Hirsch	14195-14209
10 May 1948	Ernst Kraschewski	14210-14220
10 May 1948 &	Franz Fuerstenberg	14221-14245
11 May 1948	" "	14377-14384
11 May 1948	Heinz Sawoleberg	14387-14424
11 May 1948	Karl Munscheidt	14425-14439
11 May 1948	Reinhold	14440-14455
10 May 1948	Friedrich Selcher	14182-14194

During the said proceedings the following exhibits have been offered in evidence:

PROSECUTION EXHIBITS

<u>Exhibit</u>	<u>NI No.</u>	<u>Official Transcript</u>
2302	FS 2353 C	10899
2303	179	10904
2304	14036	11145
2305	14034	11182
2306	15070	11183
2307	14236	11302
2309	14232	11312
2311	15062	11327
2312	15063	11330
2314	14257	11468
2315	13524	11473
2316	14256	11473
2317	14251	11485
2318	14252	11476
2319	14014	11482
2320	14039	11834
2321	13084	11848
2328	10532	12615
2329	10528	12616
2323	10907	12706
2330	13525	12733
2331	15021	12878
2332	3763	12915
2333	15115	12921
2334	15116	12923
2335	8647	12927
2336	15132	12933
2337	1514	12942
2338	14098	13106
2339	13534	13111
2340	15215	13126
2341	15260	13620
2342	15173	13286
2345	7637	13728
2346	7666	13730
2352	15290	14382
2353	15296	14392

I, the undersigned Commissioner, do hereby certify that the aforesaid official transcript pages comprise a full, true and correct report of such proceedings, testimony and evidence heard and recorded therein before me.

Dated at Nurnberg, Germany, May 28, 1948.


 JOHNSON T. CRAWFORD
 Commissioner of Tribunal No. 6

Official Transcript of Hearing before a Commissioner for military Tribunal VI, Case VI, in the matter of the United States of America against Karl Kreuch et al, defendants, sitting at Nuernberg, Germany, on 27 April 1948, Commissioner Johnson T. Crawford presiding.

THE MARSHAL: The Commission for Tribunal VI is now in session.

DR. LUELLER: Mr. Commissioner, first of all I would like to state for the record that the Defense of Case No. 6 has been informed in time about the examination of this witness, Duellberg.

I would also like to state that the Defense of Case No. 6 has been informed about the following cross-examinations.

First, the cross-examination of Schindler will be continued. The same defendants who were here last Friday, are asked to participate.

Secondly, on Wednesday, April 28th, in the afternoon, we will have the cross-examination of Goldschmidt and Reithinger. The Presence of the defendants Mann and Digner and Cattineau is requested.

Thirdly, on Thursday, at 10 o'clock, we will have the cross-examination of Graf Sprotty and Schmidt. The presence of the Defendants Schmitz and Cattineau is requested.

Fourthly, on Friday, at 10 o'clock, we will have the cross-examination of the witness Schmitz. The presence of the Defendant Mann is requested.

Fifthly, on Friday afternoon, we will have the cross-examination of the Affiants Dr. Alt and Dr. Silcher. The presence of the defendants Ambros and Buotefisch is requested.

Sixthly, on Monday, the 30th of May, in the afternoon, at 1:30 o'clock we will have the cross examination of the witness Hartmann. The presence of the Defendant Buotefisch is requested. And for next Wednesday, the 5th of May, we will have the cross-examination of the witness Struss. The presence of the Defendants Ter Meer, Duerrfeld, and Ambros is requested.

THE COMMISSIONER: Very well.

DR. FLAECHSNER: Dr. Flaechsner for the Defendant Buotofisch.

Mr. Commissioner, I would like to ask for permission to question the witness Duellberg in the witness stand.

THE COMMISSIONER: The witness will take the witness stand.

(Wilhelm Duellberg, a witness, took the stand and testified as follows:)

The witness will raise his right hand and repeat after me: "I swear by God, the Almighty and Omniscient, that I will speak the pure truth, and will omit and add nothing." (The witness repeated the oath.)

The witness will be seated.

The defense counsel may proceed with the examination.

DIRECT EXAMINATION

BY DR. FLAECHSNER:

Q.- Mr. Duellberg, may I ask you to state your full name for the record your profession, your residence, and your date of birth?

A.- Wilhelm Duellberg; retired mining engineer; at present Bergassessor of the old Essen mines of the Hoersch A.G. in Essen.

Q.- Mr. Duellberg, on 24 February of this year you gave an affidavit which bears the Document No. Buotofisch 304, Buotofisch Exhibit No. 164; and it has been submitted to the Tribunal as evidence. Do you wish to add or change anything concerning these statements?

A.- No.

Q.- In that case, may I ask you about your statements given there?

Mr. Duellberg, in the affidavit, under No. II, you talked about the structural relations of the Fuerstengrube to the I.G. Farben.

May I ask you now to state something concerning the relations between the Fuerstengrube and the Fuerstlich Pless'sche Bergwerks A.G.?

A.- The Fuerstengrube was formerly a mine of the Fuerstlich Pless'sche Bergwerks A.G. It was not in operation until the beginning of 1940. On 1 December 1940 I came to the Fuerstengrube G.m.b.H. as a mining expert.

The Fuerstengrube G.m.b.H. was to be extended. An order had been given by Berlin that the mine was to be extended for the use of the I.G. plants in Upper Silesia because coal from mines in the central district could not be supplied in sufficient quantities for them.

As I have already emphasized, the Fuerstengrube was formerly a plant of the Fuerstlich Pless'sche Bergwerks A.G., which had not been in operation. The manager of the Fuerstengrube G.m.b.H. was General Director Bergassessor Falkenhahn. Simultaneously he was the chairman of the Vorstand of the Fuerstlich Pless'sche Bergwerks A.G., and he was the only one entitled to sign for both companies. Not only the Fuerstengrube was to be extended, but also a mine of the Fuerstlich Pless'sche Bergwerks A.G., the Guenther Mine, was to be extended.

For both plants there was a common construction department directed by Dr. Hermann, who simultaneously was a member of the Vorstand of the Fuerstlich Pless'sche Bergwerks A.G. Both plants were to be built at the same time, and coal from the Guenther Mine or from Pless was to be put at the disposal of the I.G. plants, construction of these plants commenced in the beginning of 1942.

Q.- Mr. Duellborg, you talked about an order from Berlin.

Would you please comment on that in more detail?

A.- During the war it was like this: Orders and permissions were given by Berlin to extend important plants. I don't know any details. When I came to the Fuerstengrube on 1 September 1941 this order existed already and also the order for the extension of the Guenther Mine. Before that time negotiations had taken place between the Pless, I.G. and also the Treuhandstelle Ost. I know nothing about these preliminary negotiations. At any rate the order from Berlin existed because all materials, as well as all labor were assigned by them and directed from there. We were subordinate to the Reichsvereinigung Coal, and if any difficulties arose later to the Gebechem. Details about this I do not know because I did not take

part in these negotiations in Berlin as they mainly concerned construction materials. These meetings were attended by General Director Falkenhahn or Dr. Hermann, who was the Director of the Construction Department for both plants.

Q.- Very well.

Do I understand you correctly that you say the order from Berlin was an order from State authorities of some kind?

A.- Yes. During the war, for such matters, in every case, orders had to be issued from Berlin by the State authorities.

Q.- You said that Director Hermann of Pless, who looked after the extension of the Pless mines, i.e. the Guenther Mine, also supervised the extension of the Fuerstengrube. Could you now describe in detail how this was done -- working simultaneously on the extension of both mines? Please talk about the problem of labor in particular.

Witness, when the yellow light flashes, you are then talking too fast. May I ask you to make a pause between each question and answer so that the interpreters are able to translate the question first? Otherwise the record will not be clear. Please watch the interpreters so that you can check-up as to whether or not the translation has been concluded.

Will you please now start to answer my question? My question was: What was the effect of the simultaneous extension of the Pless mine and the Fuerstengrube in as far as labor was concerned?

A.- Perhaps I may say first that the Fuerstengrube G.m.b.H. had no offices of its own; the Fuerstengrube G.m.b.H. was housed in the administrative building of the Fuerstlich Pless'sche Bergwerke A.G. Nearly all departments worked for Fuerstengrube; only the Construction Department was active for both plants, and we merely had our own business administrative set-up under Dr. Ottermann. All other departments -- the Social Department, the labor procuring department and anything connected with it, in the beginning also the Personnel Department were all connected with

the Fuerstlich Pless'sche Bergwerks A.G. It had been intended that the Fuerstengrube G.m.b.H. was to be made independent, but, owing to the conditions of the war and owing to the difficult conditions involved in obtaining personnel, this simply was not possible.

Oberingenieur Rupp acted as Deputy of Herr Herrmann. Since we did not have the trained personnel we considered in the year 1942 whether it would not be more advantageous if we asked another company to carry out the construction. At the time the construction of the Reichsautobahn was stopped, I remember that an Oberbaurat Marlendorf had negotiated with Pless that is Dr. ^Hormann and occasionally also with me, in order to complete the construction of the Fuerstengrube. As far as I know there were State authorities who had had workers taken from them for the campaign in the East. The negotiations had gone so far that a representative of Marlendorf, a Diplomingenieur Reiss or Reitz — I cannot remember the name exactly — was in the Construction Department of Pless. I only recall that, in order to carry out the extension about six or seven percent of the total construction expense was being requested. It may have been one percent more or less. I do not know any more. At any rate that seemed too high to us; and these gentlemen, during the interim period, assisted in obtaining workers for the new construction. I personally only attempted to get workers for the mine sector, and I negotiated with the Labor Office in Pless and occasionally also with the Landeserbeitsamt in Kattowitz. Russian PW's were assigned to us. Apart from that we tried at the time to get workers who were residing near the location of the old mine of the Fuerstengrube.

I have already pointed out that the old mine of the Fuerstengruben had been inactivated. A large number of workers existed there who were working in the Zentralrevier, the central area. In spite of the most eager efforts we did not succeed in having these workers assigned to the Fuerstengrube. In my opinion the Labor Office simply did not have the authority

to transfer these people to us because in the Zentralrevier they had better results than we had in the Pless mines because mines in the Zentralrevier had better geological conditions. No agreement was achieved later with these gentlemen — Oberbaureis Marlendorf and Diplomingenieur Reiss. No final settlement took place, but, as far as I remember, these gentlemen tried to get workers and barracks for us. Among other things they also brought in Schmelt Juden, Schmelt Jews.

Q.— Would you tell the Tribunal what the expression "Schmelt Juden" means?

A.— In the summer of 1942 these gentlemen had tried to obtain workers.

Q.— For whom?

A.— For the Fuerstengrube and the Guenthergrube, for this common construction plan. If I may emphasize this again, no difference was made between the Fuerstengrube and the Guenthergrube, that is the Pless plant. I remember this incident very well because Oberingenieur Rupp returned and said: "we got some Schmelt Jews". May I say I had never heard that expression either, and, therefore, Mr. Rupp told me what it meant. Herr Rupp did not seem to know what it was either. These were workers who were supervised by the police. They were called "Schmelt Jews" after Police President Schmelt in Oppeln. These workers were not sent to Fuerstengrube, but they came to Immolin to the camp of the Guenthergrube; and later on — I don't know any more just how late — they were taken to Fuerstengrube in the mining train from Immolin.

Q Did these workers remain in Immelin and reside there?

A No, not all the time. May I say something here? Between these plants -- the Fuerstengrube and the Guenthergrube -- there was always an exchange of workers which was conducted by the Construction Department. These workers were not transferred by the Reichsvereinigung Coal (R.V.A.), but, as far as I remember, by the Ruebau in Breslau.

Q Would you please explain, for the record, what "Ruebau" is?

A Each stage was a separate problem, but I cannot tell you exactly what it was all about.

Q Just a moment.

Is it correct if I tell you that it might have been the "Ruestungs-
bauinspektor," the Armament Construction Inspector?

A Yes, it might have been, but I only know the abbreviation, which is "Ruebau".

Dr. Flaechner, you asked me before whether these workers in Guenthergrube or Immelin resided there all the time. I must answer "no". Later on they were transferred to the Fuerstengrube because a suitable camp was free there, and if they were needed in the Guenthergrube people sent them over by means of their own local mining train. As I emphasized before, no conclusion was reached with this Ruestungsbauinspektion. I don't know whether that actually was the name. At any rate we continued build with our own workers -- that is to say, we used engineers whom we had engaged ourselves.

Q Very well.

Is it correct if I assume that that was the beginning of the assignment of forced labor to the Guenthergrube, and later on in the Fuerstengrube?

A Yes.

Q Thank you; I have no further questions.

DR. FLAENCHNER: The witness may be cross-examined by the Prosecution.

THE COMMISSIONER: The Prosecution will proceed with the examination.

CROSS-EXAMINATION.

BY MR. MINEKOFF:

Q Mr. witness, the owner of the Pless Mines was that Mr. Pless himself?

A No. The Fuerstlich Pless'sche Bergwerke A.G. was in the hands of the Fuerstlich Pless'sche family, but since Count Pless was in England they were under the trusteeship of the Trusthandstolle Est.

Q And was Count Pless in England all during the time that you were down Fuerstengrube?

A Yes.

Q Thank you.

Now, this Mr. Rupp that you referred to as the head of the construction, is the same Mr. Rupp who came from I.G. Farben's Dyhernfurt plant?

A Oberingenieur Rupp was the deputy of Dr. Hermann, and, if I remember correctly, he was previously in Dyhernfurt near Breslau.

Q That is the I.G. Farben plant in Dyhernfurt?

A Yes.

Q Thank you.

Now, Mr. Witness, in the affidavit which you have given to the Defense and which is now in evidence as Bestefish Exhibit 164 you state in the second paragraph that Guenther Falkenhahn was the sole partner. Now, I believe that's a mistake in the English translation. Just so the record is clear, he was the business manager rather than the partner, isn't that correct?

A. Yes, he was the business manager and he was the only one entitled to sign.

Q. But he was not a partner at all, was he?

A. No, he was not a partner.

Q. Thank you. Now, in Paragraph 4 of your affidavit you discuss the obtaining of labor for the Fuerstengrube mines, and you state that in spite of all the requests which you made to the labor allocation authorities you could not obtain any prisoners of war, but instead were forced to increase the number of inmates working for you; that is, concentration camp inmates. Now, just so the record is completely clear, Mr. witness, will you tell the tribunal what efforts, if any, you made to obtain British prisoners of war instead of concentration camp inmates?

A. The applications for allocation of labor were made by us to the labor offices or to the Landesarbeitsamt, the Land Labor Office in Kattowitz. As I have mentioned before, it was very difficult to get workers, because in the Plessner district the output was smaller than in Kattowitz. Added to this, at a later time I remember a conversation in the Land Labor Office where they told us, "Well, you have to take inmates because we are unable to get any other workers for this territory". In order to explain this entire situation, it may be of interest, in Dawoschno the manager was a Bergrat Dicke. He was instructed to build a power plant --

Q. Just a minute, perhaps you didn't understand the question. My question was simply this: what efforts did you make to obtain prisoners of war instead of concentration camp inmates. Did you understand that question?

A. Yes.

Q. Try to answer it.

A. We made our applications only to the labor office and the Land Labor Office. When in 1943 the Schmelz-Jaw Camp was declared to have become a concentration camp, and we were informed that "for the Fuerstengrube you will get 1200 to 1300 inmates and 900 for Janina",

I am sure that we did not take more than that number, and not even reached that number. We always tried to get other workers, because we could not work very well with inmates in the mines. We wanted to have a permanent staff and permanent workers. Mr. Duerrfeld can confirm that I negotiated with him repeatedly to let me have some people who travelled from our district to Auschwitz in order to get workers for the mines. Of the inmates allocated to us I would like to state that only a very small percentage was employed in the mines. The majority, by far, was employed on construction work; and I would also like to emphasize to prove that only in the last days - perhaps in 1944, did we employ these inmates in the mine. Only perhaps 200 at the Euerstengrube and perhaps 300-350 in the Janina, and the inmates whom we sent from Euerstengrube to the other new mines, and we could not use the inmates in this heavy work, and we only got in exchange from these workers that we transferred some people allowed us by the mining sector.

Q. Mr. witness, we can save a lot of time and we can avoid burdening the record unnecessarily if, instead of making a long speech about all your troubles with labor, you will just answer the simple questions put to you. Now, the question you had was merely what efforts you made to obtain prisoners of war instead of inmates. I want to know did you write letters? Did you have personal interviews? Just tell me the efforts you made, the personal steps you took to get prisoners of war, and not all your troubles with inmate work.

A. I personally made written applications to General Director Falkenhahn, the Chief of the Euerstengrube mine, who did not want to have inmates either, and was in Berlin very often. I believe Herr Falkenhahn is the man who can give you the correct answer. I have already told you that I was not in Berlin, that Herr Falkenhahn informed me again and again that all his efforts in Berlin had been in vain, and Herr Falkenhahn told me that during his calls in Berlin at the Reich Association Coal, I believe he also belonged to the Executive board of this association, he tried

everything possible, but as I said, I was not there myself. I only heard from Herr Falkenhahn. He only told me that he made all possible efforts to get labor, but not inmates.

Q. Of all that you mentioned you wrote letters to get prisoners of war. Do you recall the approximate time you wrote those letters?

A. I can only say that we always tried, whether he wrote or whether we went personally I cannot say any more now, but at any rate we always made efforts, and as I emphasized before when organizing the Fuerstengrube and the Guenthergrube, that the agency of Fless which was under the direction of Dr. Kopp worked on this field in particular. This was the department, I believe it was called the Personnel department of Fless.

Q. All right now, Mr. witness, will you tell us why you considered concentration camp inmates as undesirable workers?

A. Mining requires that the workers be particularly qualified. Even if I am the only miner here any one would understand that the relation between the superior and the miner below ground is different than in any other profession. One really depends on each other and everybody knows. Owing to accidents which occur everywhere, that every one refuses to have any forced labor. This is connected with the actual profession. The entire manner of working below ground requires a special education, a special tradition, which cannot be learned from one day to the next.

Q. Mr. witness, wouldn't that objection be equally true to all forced workers, like the Schnelt-Juden, and the Schnelt Poles; the forced Eastern workers, the forced Polish workers, or for prisoners of war? The objection you are raising now as to inmates, wouldn't it apply equally to all forced labor?

A. Yes.

Q. Is it your testimony, Mr. witness, that the management of the Fuerstengrube Mines made no efforts to obtain any other forced labor?

A. I would like to emphasize that below ground one has to make a strict distinction between working above ground and below ground. Below ground we only employed POW's who, as far as I know, wanted to do this kind of

work, and as proof I can state, I don't know whether it was in 1943 or 1944, in the Janina mines there was a large fire, and it was a matter of life and death inside the mine. During such time of danger not one single inmate was employed, but only the best permanent workers.

Q. All right, Mr. witness, if I understood your testimony correctly, the British prisoners of war who worked in the mines because they were willing to work there, were far more desirable employees, and far more desirable workers, as far as you were concerned, than were the inmates of the concentration camp who were assigned to you?

A. Yes. They were only taken off --

Q. Just a minute, you will have a full opportunity to discuss anything else that your counsel wants to discuss. We could save a lot of time if you will just answer the question I put to you. If any question cannot be answered by a short answer, we will take a long answer, but just answer the question. Now, Mr. witness, isn't it a fact that when you did have British prisoners of war working for you in your mines, it was you who took the initiative of seeing that those British prisoners of war were removed from the mines so that you could get inmates?

A. Concentration camp inmates were not availed for from Fuerstengrube mine. That the POWs were taken away was due to the fact that no more were sent to us -- no more British Prisoners of War were sent to us, and as far as I remember now, the Reich Defense Commissar intervened somehow. Complaints had occurred concerning the British Prisoners of War. These were immigrants who had come from that region and that was partly decisive for the fact that they were sent to the central region, another district.

Q Now, Mr. Witness, isn't it a fact that when the British prisoners of war were working for you you found that that they were not working hard enough and you personally suggested that severe and harsh methods be applied to them so that they would work harder. Now isn't that true?

A I can not remember details. I only know that we had difficulties because the people came originally from that district and had such close contacts with the employer that we had difficulties. I did not have to conduct the details of these negotiations, but Professor Krueger, who was the manager of Juelich mine, did that.

Q Now, Mr. Witness, you were the leader or the Betriebsfuhrer, and when matters were negotiated on behalf of the mine, it was you, with whom those matters were negotiated, isn't that so?

A Not everything. I was not Betriebsfuhrer according to the law. The Betriebsfuhrer, according to the sense of the law, was Bergassessor Falkenhahn, and responsible to the mining authorities was the local Betriebsleiter in the mine, and the local Betriebsleiter or managers handled most of these matters which concerned the regular operating routine of the mines, together with the local authorities.

Q Mr. Witness, I will have to show you NI 10519, which is a Prosecution Exhibit in Book 81, on page 16 of the German and 7 of the English. Will you show that to him? I want to call your attention particularly -- incidentally, this is a letter signed by you personally, Mr. Witness, and I call your attention particularly to the paragraph where you say, "It would seem advisable to authorize the guard detachment or the Auxilliary guards to take drastic steps,

energetically and mercilessly, if necessary." It is the third paragraph in the English.

A I read here, "Because it has occurred again today that British prisoners of war did not follow the instructions by our betriebsfuehrer, we ask you for that reason to instruct the local Waffencommander from there to instruct the prisoners of War and to point out their duties to them." That is a matter of course.

Q Will you read the paragraph where it begins, "It would seem advisable to authorize the guard attachment--".

A "It would be advisable to also ask the auxiliary guards to take drastic measures wherever it is necessary." I understand today, the word --"

Q Doesn't it say mercilessly too?

A No, it says energetic and "mercilessly" and this word in German, too.

Q "Energetically and mercilessly" both. And wasn't that your suggestion, Mr. Witness, as a means of handling the British prisoners of War who did not work hard enough to suit you?

A No, in the mines we had to enforce discipline --.

DR. FLAEGHSNER: Mr. Commissioner, may I ask that the entire document be shown to the witness, and in particular the document belonging to it which is on page 17 and 18 in the German text, because there the incident is described to which the letter refers about which the witness was questioned, and the witness can only give a proper reply if he recalls the whole incident to his memory. May I ask that the witness be allowed to read it first?

A May I ask you where this is written?

THE COMMISSIONER: The entire document should be before him.

Q. Mr. Commissioner, he has the document before him, but the witness has indicated no lack of memory as to what has occurred at the time, and the only question before the witness was whether the suggestion that the British prisoners of war be treated energetically and mercilessly was his suggestion. He hasn't testified that he does not recall the incident at all.

A. No, I only know that it occurred that prisoners of war threatened superiors in the mines. That is what I was told at the time, and because we didn't have any power over the prisoners of war the military authorities were asked to undertake the necessary steps, because as far as the mine police were concerned, we were responsible for the security of the entire mine. I don't know details, I only know that Manager Krueger at the time had many difficulties and I was not mine betriebsfuehrer; that must be a mistake. I can't imagine why it says so because I did not conduct the individual negotiations there.

Q. But the particular document that I showed you, Mr. Witness, that was not signed by Krueger was it? That was signed by you, isn't that so? By both you and Mr. Torneman. Page 16.

A. Yes.

Q. Now, didn't the mine administration also suggest that apart from treating them drastically and mercilessly that if they could not make the British prisoners of war do what they were supposed to do, they were also to punish them by appropriately cutting down their food allotment? Do you recall that?

A. No, but concerning this point, I would like to say even in situations like this now, according to the laws of the mine, if somebody threatens his superiors, he is

punished very severely, mostly by imprisonment.

Q Now, Mr. Witness, didn't you also have trouble with the British prisoners of war in connection with housing them? Well, for example, do you recall the British prisoners of war being housed 150 to a barrack and you wanted to put 200 in? The Wehrmacht said you couldn't put that many in; it wouldn't be healthy. You recall that whole controversy?

A I do not remember details. I only know that the Wehrmacht set down how many prisoners of war could be housed in one room. That was not up to us. We were not in charge of this camp. The Wehrmacht was.

Q That is true, but didn't you have a battle with the Wehrmacht saying that they were wrong, that the camp could hold more than 150, and the Wehrmacht said it would not be healthy to crowd the prisoners in more than 150? Didn't that battle go on for sometime between your management and the Wehrmacht?

A I emphasized before that I personally did not conduct negotiations. I do not know details.

Q All right, now, Mr. Witness. May I show your NI 10524, which is another prosecution document? It is on page 13 of the English and 24 of the German, in Book 81, and this is a letter from you to the Wehrmacht, in which you personally take up the controversy about having 200 prisoners of war put in the barracks where there were formerly 150. I call your attention specifically to the second paragraph where you say Captain Baer-- that is the Wehrmacht officer -- and local guard detachment considered the quarters insufficient and refused to put back the beds that the prisoners of war had removed, and the following paragraph you say you disagree with the captain. There is enough room for 200 to be put in there.

Do you recall that controversy?

A I do not remember the details any more. At any rate, I must emphasize it is possible that we had differences of opinion. After all, the opinion of the Wehrmacht was always decisive.

Q Well, the question that we are presently concerned with, Mr. Witness, and that we are trying to throw some light upon, is how desirable you found these British prisoners of war as workers. You testify today that the inmates were undesirable workers. You couldn't trust them in the mines; they couldn't work as hard, but the British prisoners of war were willing workers and they were good for your kind of work. Now, if that is the essence of your testimony it is awfully important to find out what your relationships with the British prisoners of war were at that time.

A Yes, I say those negotiations with the Wehrmacht were conducted by the former administrator of the Janina mine, not by us, and the camp was intended for 200 men as can be seen from the document. So many never were in the camp, because they always said, "There are no prisoners of war", and the prisoners of war were released, as I emphasized before, not only because they did not work, but because difficulties arose because complaints had been made with the Reich Defense Commissar because a great number of emigrants were there who originated from that district, from Oppeln and Breslau. I myself talked to one of them, on the occasion of a ride in the mine. He originated from a place between Breslau and Oppeln.

Q. Now, Mr. witness, these barracks which housed one hundred and fifty British prisoners of war and which you thought could possibly house two hundred, will you tell the Court how many inmates of the concentration camp you housed in these very same barracks after you managed to get rid of the British prisoners of war?

A. I cannot say that. At any rate it was like this. When the inmates arrived, barracks had already been built again. There was a real solid building for the British POW's and this was extended all the time because we hoped to get more POW's and when in the meantime the inmates arrived barracks had already been built again. Therefore the housing space had been increased.

Q. Mr. witness, isn't it true that before any of these inmates arrived you had a little tour of inspection where you examined these barracks and at that time, in examining the barracks where the one hundred and fifty British POW's had lived, you agreed that that could hold three hundred inmates? Do you recall that little inspection tour?

A. Yes, but I would like to emphasize that I did not decide how many inmates were taken in, but the SS decided that. I had no say in the matter.

Q. On whose initiative were the British prisoners of war removed from your mines?

A. I have already emphasized because we could not fill up the camp we could not get any more British POW's because there weren't any more, and apart from that the Defense Commissar also had a say because it concerned emigrants who came from that district.

Q. Mr. witness, then your testimony is that the real reason the British prisoners of war were removed from the mines was not because you couldn't get them to work and not because you could put more inmates in the same barracks but because you couldn't get enough prisoners of war. Now, Mr. witness, I will show you a circular letter which is NI-10532 and is offered as Prosecution Exhibit -- I'm not sure what the next number should

be. Mr. Commissioner, I am not sure what the next exhibit number should be. I would like to offer this document in evidence as the prosecution's next exhibit. I am not sure how the Commission numbers have been running. We could leave that for the moment and come back to it.

THE COMMISSIONER: We can supply it later.

MR. MINSKOFF: We can supply that number for the record later.

BY MR. MINSKOFF:

Q. (Continued) Now, this circular letter, Mr. Witness, do you recall, from looking at that circular letter, whether as a matter of fact in September of 1943, which was after you had asked the other prisoners of war to leave, you were offered more prisoners of war? Do you recall that?

A. I am just reading the letter. I cannot remember, but many things were written sometimes which were not true and that probably was the case here. I know that we were not able to get any British prisoners of war.

Q. Well, Mr. witness, let me show you NI-10528, which is a letter signed by you in reply to that circular letter. This is offered as a prosecution's exhibit, and I will leave it blank until we can fill it in, which is your answer to that circular letter, and you state: "We inform you that we do not have the intention of using English PW's in our mine because we are already using inmates." Do you recall writing that letter?

A. No, but in my opinion that is quite obvious when we had inmates we could not get any prisoners of war because it was too late.

Q. Did you know that, just a very short distance from your mine, in I.G. Auschwitz, that the I.G. Auschwitz was using English prisoners of war together with, and side by side with, the inmates of Monowitz?

A. No, I do not know that.

Q. Now, Mr. witness, I would like to turn to another point for a moment. You mention in your affidavit that the mine administration and the Betriebsfuhrer -- which is yourself in that case -- took strict care to see to it that the inmates, the concentration camp inmates, during

their working hours were properly treated, and you state that it was regularly pointed out both verbally and in writing to the whole camp that the corporal punishment of inmates was strictly forbidden.

A. Yes.

Q. Now, Mr. Witness, do you recall receiving from the SS a communication telling you that they had been warning you repeatedly against the beating of inmates by civilians and requesting you in strong terms to see that these beatings stopped? Do you recall that?

A. No.

Q. Mr. Witness, I show you Prosecution Exhibit 1555, which is on page 52 English and 100 of the German of Book E1, and I ask you whether that letter refreshes your recollection as to whether the SS didn't call your attention to the fact that they had given you repeated verbal and written warnings to have your foremen stop beating inmates.

A. In my opinion, this concerned an exception. I am thinking of Gditz. He was not an employee of the mine. He was an employee of the firm of Stephan Frischlich und Klopffel. They did preliminary work in the old mine of the Fuerstengrube mine. I remember this incident because the director of the firm Frischlich und Klopffel came to me and asked me to intervene there, that this foreman was not to be punished too severely. I refused to intervene and applied for his transfer. It is always like that, there are always exceptions in any community, and we always took strict measures.

Q. Mr. Witness, perhaps you can help us. Do you happen to know what the SS author of that letter meant by "he had given you repeated verbal and written warnings"? Was that just an exceptional case?

A. I don't know. This letter probably was sent to the Betriebsfuehrer of the Fuerstengrube, to the individual offices because the entire labor was regulated in each separate sphere, because it says there, also to the Betriebs management, the plant management of the Fuerstengrube mine. That proves that it was sent to the individual offices and not to

the general administration of the Fuerstengrube G.m.B.H. It says here, to the management of the Fuerstengrube mine, therefore to the Fuerstengrube, if it would have been sent to the Fuerstengrube G.m.B.H., Kattowitz.

Q. Thank you. Now, Mr. Witness, you stated in your affidavit, in paragraph 7, that the inmates were only assigned to such work as they were able to perform. It was not expected of them that they should work beyond their powers.

A. No.

Q. Now, Mr. Witness, do you recall setting up an invalid command?

A. No, not in the mine.

Q. Now, I don't want to be over technical, whether they worked inside the mine or above the mine. If they worked for Fuerstengrube, that is all I am interested in. Now, I am asking you, do you recall setting up what was known as an invalid command for inmates who because of having been injured during the course of their work no longer could do the heavy work and were assigned another kind of work.

A. We still have that, even today. People who have been injured and cannot work in the mine, in order to get the extra food rations and in order to get the money ask to be employed above ground and even now, in the year 1948, they are employed with light work, above ground.

Q. Do you recall, in the command which you set up, assigning work to men who only a few months before had such injuries as compound fractures, compound fracture of left leg, and smashed feet, contusions of the pelvis, fracture of the metatarsal?

A. I consider that impossible.

Q. Mr. Witness, I show you NI-10907, which is offered as Prosecution Exhibit Blank. This is the third exhibit. We will fill them all in. I refer you to the list of names, the date of the accident, and the medical report, and ask you whether, since this letter was written on December 7, 1944, whether it was not a fact that before many of these very serious injuries could possibly have healed you were already assigning inmates to do work?

27 April - LU-17-5-For (Det. J. Dick)
Court VI - Case VI Commission

I am convinced, and I was convinced at the time, that these could only have been lighter cases, less serious cases, and I emphasized before it is done even now. We had nothing to say about the assignment; the SS had a say there with their administration.

Q. On this particular document, may I ask you one further question? Will you look at the fifth name down? It is prisoner inmate 174634, an inmate named Bogser. The date of the accident is 15 November 1944. The date of your letter, in which it is contained, is 7 December — three weeks later, three weeks after the accident. Look at the injuries: compound fracture of right forearm, bruise and hemorrhage in the lumbar region. Do you think that after three weeks, with such an accident, that person was ready for work?

A. You will understand that I regret this very much, but you must admit that I could not exercise any influence to stop this.

Q. One last question, Mr. witness. In paragraph 10 of your affidavit you state: "We were not in any contact with the Auschwitz main camp, as the camp of Fuersten and Janina was administered by a special branch agency." Now, Mr. witness, was that special branch agency the Concentration Camp Monowitz?

A. Yes.

MR. MINSKOFF: Thank you. No further questions.

DR. FLAEGHSNER: No further questions to the witness.

DR. SEIDL: Seidl for Duerrfeld.

REDIRECT EXAMINATION

BY DR. SEIDL:

Q. Just one question concerning your last reply, Mr. witness. You were asked whether the camp was administered by the Concentration Camp Monowitz and you answered that question. Is it correct that the Concentration camp Monowitz was the highest authority, administration for all forty workers camps which were distributed throughout the industry in Upper Silesia? If you cannot answer with yes or no, just explain it.

A. I cannot say that all forty camps of Upper Silesia were administered there, but I do know that camp of Monowitz looked after the branch camps of Auschwitz. I assume of neighboring mines, the Fuerstengrube, Pless and several other camps.

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MR. SEBEL: Thank you.

MR. NIKENOFF: No further questions.

THE COMMISSIONER: If there are no further questions, the Commission
will be in recess until ten o'clock tomorrow.

(The Tribunal adjourned until 28 April 1943, at 1000 hours.)

OFFICIAL TRANSCRIPT OF MILITARY TRIBUNAL VI CASE VI
IN THE MATTER OF THE UNITED STATES OF AMERICA,
AG: INST KARL KRAUCH, ET AL, DEFENDANTS, SITTING AT
MUNICH, GERMANY, ON APRIL 28, 1948, JUSTICE
SHAKE PRESIDING.

THE MARSHAL: Persons in the Courtroom will please find their seats.

The Honorable the Judges of Military Tribunal VI.

Military Tribunal VI is now in session. God save the United States
of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: You may report, Mr. Marshal.

THE MARSHAL: May it please your Honors, all of the defendants are present in the Courtroom save the defendants Haefliger and Hoerlein absent due to illness, and the defendants Krauch, Gajewski, Buetefisch, Jaehne, and Oster absent excused.

THE PRESIDENT: Are there any announcements from counsel; from the Defense?

DR. BELZE: (Counsel for the defendant Dr. Hoerlein): Mr. President, I went to the Document Room yesterday to get the documents which were partly stricken during the course of this trial, and on that occasion I also asked for the documents which were not received into evidence or which were rejected. I found out that all of these documents remained unchanged in the document room, just as they were on the first day.

Since I believe these documents to be the authentic basis for your judgment, and for your findings, and since they are also important for a possible later check, and for the writing of history, I believe it would be proper to make sure that the documents, that were not accepted, or the documents that were rejected, should bear a written notice on the original to that effect, and that on those documents which were partly stricken it should be indicated, to what extent they were not admitted into evidence or what extent they were stricken from the record.

Yesterday, I handed in to your Honor a written application to that in which I asked that the Tribunal be kind enough to comply with this

request, which would support historical truth; that your Honors issue a ruling that the documents should be given the proper indication on their face.

It would be in accordance with a just trial, that on those documents which are contained in the document books of the Prosecution, which were not introduced, but which nevertheless are still in the document room today, a note to that effect should be attached.

THE PRESIDENT: I am not sure, Dr. Kalte, whether I get the import of all that you have said, but perhaps this may be appropriate: The document room is a depository of documents. The record of documents in this case are the records in the Secretary General's office. All documents that have been introduced in evidence, all documents that have even been offered in evidence, all documents that have been marked merely for identification, belong in the files of the Secretary General, and I think and assume that the folder or at least the record discloses the situation with respect to each document.

Primarily we are unconcerned about the document room. That is another agency that serves the Court by acting as a depository for certain documents; but after all, the documents about which we are concerned are those that come into the courtroom, that are given a number, and thereby become a part of the files of the Secretary General's office pertaining to the trial of this case.

We will look at your motion when it comes in, and if there is any irregularity or uncertainty about it, we will undertake to try to straighten that detail out.

MR. SPELCHER: Dr. Kalte was speaking not of the court archives, apparently, but of the document room of the Prosecution staff, where he has been in connection with this recent motion which we are fulfilling.

THE PRESIDENT: I think that that perhaps is the cause of the confusion, if there be confusion. After all, Dr. Kalte, the records of the documents that are used in this court, are the files of our Secretary General, and we are unconcerned about the so-called document room except insofar as

it is a depository for certain documents. The records of this case are the files in the office of the Secretary General, and I believe that if you will make inquiry you will find that those records are being properly preserved and identified, and that the records of that office disclose the situation with respect to each document.

I am quite sure that if that is not true it is a pure oversight or an error, which will be readily corrected, if it is called to our attention.

DR. NELTE: Mr. President, I was merely concerned with trying to prevent the documents submitted to you, which are now in the possession of the Secretary General, diverging from those documents that are in the document room, which after all contain the originals for those documents of which you are given copies.

THE PRESIDENT: Dr. Nelte; perhaps your confusion is due to what you call "originals". We have observed in the course of this trial that ordinarily what we regard as the original document is a photostat of the document. In most cases that is true; we have observed that in the files that have gone across our desks.

Strictly, they are not, but for the purposes of this trial they have been so treated, because they have been verified as copies of the original, and we have accepted them as the documents.

Now, it well may be that you find in the document center a photostat of the same document that is in evidence, or has been offered here, but for our purposes, the original document is the document in the hands of the Secretary General, - at least until there has been some objection, and the Tribunal has determined otherwise -- so I think your confusion is due to the fact that the Secretary General in effect is what some of us are accustomed to call the Clerk of the Court, and his files are the files of this Court. The document center is an agency of the administrative office that has custody of documents not only for this Tribunal but for all of the Tribunals, and it well may be that you find duplicates down there in that office that they regard as originals for their purpose, that do

not reflect what has happened in the case, but if you go to the Secretary General's office or check on his files, I believe that you will find that the documents that have been offered in evidence here, for any purpose, are in his files and that his files will indicate the situation with respect to the documents.

Let the matter pass until we get your action, Dr. Malte, and we will determine whether or not there has been any uncertainty or irregularity about it, and if there is, we will remedy it very promptly.

DR. MALTE: "r. President, I merely ask to be permitted to explain that my suggestion was an attempt to prevent the files of the Secretary General differing from those which you are going to consider. For purpose of writing history somebody might possibly take the files which are in the hands of the Secretary General at present, and then a historical untruth might arise which we have already been able to observe in the case of the well known 5 letters about the 150 Polish women, which were considered evidence and published for the general public on the basis of material that was in the hands of the Secretary General.

THE COURT: Very well, Dr. Malte, as soon as we have your action we will scrutinize it carefully, and if there is any uncertainty in our minds or in your about it we will confer with you informally and take whatever action is necessary to make the records reflect what has happened in this case.

Are there any other announcements?

Anything from the Prosecution?

MR. SPEECHER: Mr. President, in connection with compliance with your ruling of last Thursday, over half of the NI documents have been separated and without exception those that are derived from Farben files up to that point have been deposited in Room 413 and are available to the Defense.

THE PRESIDENT: Very well, if there are no further announcements, counsel may proceed with the examination of the defendant.

DR. HANS KUGLER - Resumed

DIRECT EXAMINATION - Continued

BY DR. HENZE:

Q. Dr. Kugler, we left off yesterday at the following subject: You were describing the reasons why Farben was interested in the fate of the Aussig-Falkenau plants. Have you anything further to add to this point?

A. I said yesterday that the worry that the international market system might be disrupted was caused particularly by the fear that third parties might interest themselves in the dyestuffs production of the Prager-Verein, and would take this enterprise outside of the international market system, and thus do damage.

In the Prosecution's evidence there is some indication that at that time, from circles of the Sudeten-German party itself, interested parties raised their voices to acquire these plants. Actually, the Sudeten-German Party at the end of September appointed the Technical Commissar. Subsequently it was found that a brother-in-law of Konrad Henlein, later the Gauleiter of the Sudeten Gau, was an employee in the Falkenau plant, and from that direction, too, certain difficulties later developed that I shall talk about a little later in my examination.

In brief, the fear that outsiders might interest themselves in the plant was a little more than pure theory. Under such considerations, at any rate, it was decided at the time that the Aussig plant should not be permitted to fall into a vacuum. If we took into this problem the Falkenau plant as well, and if the interest was not confined merely to the dyestuffs field of the Aussig plant, this was done because the two plants were closely connected, economically and organizationally. The dyestuffs factories in the Aussig plant, by the way, were not consolidated in one closed unit, but were distributed over the entire area of the plant. In other words one could not do anything

in the dyestuffs field that one did not also do in the chemicals field. The proof for the fact that Farben interested itself in the fate of the Aussig-Falkenau plant only because of dyestuffs production can be seen from the material presented by the Prosecution.

I refer to Document NI 4016, which is Prosecution's Exhibit 1107, on page 39 of the English, in Book 54. It is a letter of the firm of von Heyden to the Reich Ministry of Economics, dated 10 October, 1938; as can be seen from the letter, representatives of the firm of von Heyden held a conference with the Reich Ministry of Economics on 6 October, and evidently during that discussion the Reich Ministry of Economics informed the von Heyden people about Farben's motives; and in his letter to the Ministry von Heyden refers to this information. Heyden first gives the reasons why, in his opinion, Farben should be eliminated from the entire transaction, and then he goes on to say, I quote from pages 38-39 of the Document Book 54, in the German: "The same applies to other major enterprises of the German chemical industry, should they acquire influence over Aussig plants, the more so since almost all of them have some connection with Farben, either personally or officially. On the other hand the Chemische Fabrik von Heyden is the right and proper firm to take over the plants of the Aussig-Verein".

I continue in the next paragraph, and I quote:

"The dyestuffs sector of the Aussig-Verein does not constitute an adequate reason for giving I. G. Farben preference in obtaining the Czech interests in the Verein".

And then from the last paragraph on page 38 - that is on page 41 of the English - I quote:

"We, for our part, do not intend to compete with Farben in the field of dyestuffs. We are prepared, rather, if the circumstances warranted it, to come to an agreement with Farben whereby its interests in the field of dyestuffs, including the international field, will in no way be prejudiced."

DR. HENZE: That quotation is on page 2 of the original of this document and page 3.

Q. Now, Mr. Kugler, please tell me, briefly, why you were chosen when a commissar had to be appointed.

A. I was Farben's choice especially because the interest of Farben was in the dyestuffs field. I was the director of the dyestuffs business of Farben in Czechoslovakia. I was familiar with the operation of the international dyestuffs cartel, because I had helped in building it up. I was a member of the Special Commission of the Tripartite Cartel, which conducted the negotiations with the Prager-Verein for the execution of the Special Agreement of 1934, in constant negotiations several times a year in Prague or Vienna. I knew conditions in Aussig myself, from those discussions and negotiations. I was known in the Ministry of Economics, from conversations about trade policies, customs, and foreign exchange questions which came up in the course of the years, particularly about the relations of Germany with Czechoslovakia; thus the Reich Ministry of Economics may have approved my candidacy, since they themselves were interested in avoiding any emergency, in those plants.

Q. Did you yourself conduct the negotiations with the Reich Ministry of Economics for the appointment of a Commissar?

A. No.

Q. Who did conduct them?

A. Mr. von Schnitzler.

Q. How did you learn about your appointment?

A. As far as I remember, during the latter days of September, Dr. ter Haar called me on the telephone from Berlin - I was in Frankfurt - and told me that the Reich Ministry of Economics had agreed, on principle, with the appointment of such a Commissar, and he said that I should expect to be appointed.

I further remember that on September or 1 October, 1938, the Reich Ministry of Economics, either Mr. Mulert or Mr. Hoffmann, called me on

the phone and asked me to come to Berlin to receive my instructions and subsequently start on my tour of duty.

Q. Of what nature were these instructions?

A. The instructions were as I have already indicated, when I explained the basic idea of the commissariat. I was given the mission of operating the plant for the party concerned, objectively and neutrally, to keep the three mines, - 2 near Jussig and a large one near Falkenau - and to it that the more than 400,000 employees should have their work secured.

Q. Did you have any misgivings about accepting such a position at the time?

A. I admit quite frankly that that was not so. No, my answer is frankly "No".

Q. From the point of view of 1947 or '48, the Prosecution may perhaps consider the events in the Sudeten Gau as a link in a chain which begins in the spring of 1938 and which terminates sometime in '43 or '44 with the occupation of some other European countries by German troops. However, I believe my mission at the time and my decision to accept this mission must be viewed under the circumstances as they presented themselves to me at the time.

A. (Cont'd)

After weeks and months of negotiations of an international nature, on the basis of agreements under international law, the Sudetenland became Reich German territory. After the tensions of the previous time in the Sudeten territory, I was under the impression that the old business management would not be in a position, at least during a transitory period, to operate these plants from Prague, and to operate them in such a manner as would be desirable in the interest of the large staff. I have explained why I was chosen. I did not compete or push myself forward.

A further reason for my decision to accept is that an international government committee had been appointed for all questions arising from the territorial changes to which the Aussig Commissariat was also known. In other words, I could not very well doubt the legality of the international settlement; nor could I deny it; and I could not doubt the right of the government to appoint a civilian to a public office. If I had refused this would have constituted a demonstration such as the world did not make at the time against Hitler.

Q. When did you start in your office as Commissar?

A. On October 1938, in Berlin, I received my mission personally from the Reich Ministry of Economics. On October I drove in a car which Ferben had made available to me from Berlin by way of Dresden to Kerklov Vary (Karlsbad); and on 5 October, for the first time, I was in the Falkensu plant. The handing over of the Sudeten Gau to Germany was carried out by stages. The region around Cheb (Egerland) where Falkenau was located, was one of the first stages.

Q. When did you arrive in Aussig (Usti)?

A. Aussig (Usti) was in a part of the Sudeten-German territory that was handed over at a later time. It was handed over on 9 October. On 10 October I arrived in Aussig in the evening, coming from Dresden; and on 11 October in the morning I entered the factory for the first time. I consider this exact chronological order important, particularly

because in the Prosecution's evidence incorrect assertions were made by affiants, one of them being that on the morning of 10 October I had already given wild speeches and had looked on while people were beaten or arrested.

Q. When did you make any speeches at all during your activity in Aussig (Usti)?

A. I could not hold regular speeches, first because I was much too busy, and also because it was not commensurate with my character and attitude. The entries in my diary at the time have been preserved, and therefore I am able to tell you exactly when I delivered a speech in Aussig.

I made a speech for the first time on 9 November 1938, when I addressed the technical and commercial office employees in Aussig, and when I, so to speak, introduced myself with this short address. The second time I spoke was on 17 December 1938 to the entire staff of the Aussig plant. And on 21 December 1938 I talked to all the employees of the Falkenau plant. The immediate cause for these speeches was the Brunner Case, which I shall deal with later. The purpose of the latter two meetings was to appeal to the people's consciences and to achieve, once and for all, the stopping of work at cross purposes and political disputes. Finally, I spoke on 19 January 1939 in Aussig, but that was only a brief speech; the rest of the speech was given by Mr. Ley, who was visiting the Sudeten Gau at the time and had stopped over in Aussig.

Q. Would you please give a brief report now on your activity as a Commissar.

A. I have already indicated what the task and mission was, the operation of the plant for the interest of the party concerned. Even during normal times the operation would have involved a number of actions and duties for, after all, together with the mines there were five enterprises and more than 5,000 employees and workers. The abnormal conditions caused additional difficulties that were unforeseeable.

From the human point of view, one must take into account that a

political tension, which had lasted for approximately twenty years, between Czechs and Germans began to dissolve - a tension which had assumed dramatic proportions during the last months and weeks. For the rest, traffic, communications, and other public utilities and services were disrupted and only started to operate again slowly.

I would not be able to give you a rounded-out picture if I described briefly to you my duties and field of work. To describe them in detail would take up too much of the Tribunal's time, especially in view of the decision of the Court of 22 April; therefore, I want to find a way out by referring to a final report that I rendered in May 1939 to the Reich Ministry of Economics, after I had completed my activity as Commissar and after I had recuperated somewhat from my worries.

Q. We are going to introduce this report, Mr. Kugler, but before that I want to speak about a few details of your activity. Several documents were offered in Book 54, Exhibits 1118, 1119 and 1120, the contents of which is to the effect that you are charged with having simply thrown out Czech citizens and Jews formerly living in the Sudeten-German territory.

A. In answering the previous question I have already referred to the general sentiment that prevailed in the Sudetenland at the time, as the result of previous tensions.

The final settlement of the Sudeten problem in the form of its incorporation into the Reich caused the German population of those areas, at the time, to be "drunk with joy," so to speak. I believe I can say that without too much pathos. On the other hand, the non-German parts of the population who had remained in the territory were the object of negative phenomena of such revolutionary times. The people who had considered themselves oppressed up to that time turned against those whom they considered - rightly or wrongly - their oppressors.

Old personal differences and disputes were unearthed. Statements which someone may have made years ago were again thrown open to discussion. One person was accused of having sent his children to a Czech

school; another was reproached for once displaying a Czech flag of particularly large proportions. In the Egerland, the area around Cheb where Falkenau is located, the German character of the population was particularly pronounced; the differences in that area were less frequent, but they were particularly severe. I shall come back to that point when I speak about the Brunner Case.

In the Aussig region, which is located farther to the East, a considerable increase in the Czech part of the population could be noticed in the course of the years. The Czech Government deliberately supported the increase of the Czech influence in that area during the later years. The Prager Verin, beginning with the 1930's brought more and more Czech personnel to Aussig. Another factor in the Aussig atmosphere was that on the bridge over the Elbe a Sudeten-German was shot by Czech troops on the day when that area was turned over to the Germans. The dead man was buried as a national hero one or two days after my arrival.

In brief, it was a mess, and in addition to all other tasks, together with the three men I had brought along from Frankfurt or Berlin, I had to see to it that human and political passions did not cause a hullabaloo in the plant. I believe that I can say for myself that I was able to achieve this.

Q. Mr. Kugler, you gave a general description; but you haven't answered my question yet. Will you please be kind enough and answer the question about the document mentioned a short while ago?

A. First I want to deal with the text of the dismissal letters which are contained in Exhibits 1118 and 1120. These seem interesting and enlightening to me in connection with your question. The wording of these letters was deliberately drafted by me and my technical associate Brunner in such a way that none of the recipients could be considered dismissed. The people concerned were suspended from service and made available to the Prague Directorate General; their salary was paid up to the end of October 1938.

Q. Did you or your technical Commissar colleague select those employees that were to be transferred to Prague?

A. I cannot properly answer your question in that form. In the plants and mines German employees' councils were formed immediately. These employees' councils submitted lists to the management of those employees and workers who they considered should be eliminated. As a rule, these lists had been arranged with the new local party organization. These party organizations in turn, named suspect persons to the management.

In Exhibit 1119 of the Prosecution it is pointed out that the action was going on, and I quote:

"Under the supervision of the competent party agencies."

The pressure was intensified when it became known that the Prague Directorate, again in consequence of the political tension, was undertaking an action in the opposite direction. Germans or Sudeten-Germans who worked in Prague or in plants in the remaining part of Czechoslovakia were dismissed by the Prague Directorate General, or at least urged to resign. Already on 13 October the first employees from other parts of Czechoslovakia arrived at Aussig and reported to the management and asked whether we could take them in.

The Prosecution's affiant, Dr. Basch, in Document NI-13556, on Page 10 of the German text, second paragraph, confirms what I have just said. What is not correct in this description is that the Prague action was intended, so to speak, as a reprisal for the Aussig action. For 13 October would have been a little early for realizing such a reprisal.

It was my task and the task of my colleague Brunner, together with the moderate elements among the employees and in never-ending negotiations with the party agencies, to try to see to it that these things did not somersault. Our aim was to have this whole matter settled by effecting an exchange of personnel.

Q. When you say "exchange of personnel" do you mean the repatriation of the Germans from Prague into the Sudeten-German territory and the transfer of the Czechs from the Sudeten-German territory to Prague?

A. Yes, that was the way it was carried out in practice. The list of men transferred from Aussig to Prague, who are mentioned in Prosecution's Document NI-11376, Exhibit 1120, can be compared with a list of persons dismissed by Prague and taken in by Aussig or Falkenau. A compilation of the figures of this exchange of personnel is also contained in the final report to the Ministry of Economics, dated 26 May 1939, which I have already mentioned. At the end of 1938 I had taken in approximately 80 persons from Prague and employed them either in Aussig or in Falkenau.

Q. Perhaps you will say a few words on this point: Did Czech citizens or persons of Jewish descent still remain in Aussig and Falkenau?

A. Yes. Brunner and I succeeded in retaining a number of people and in evading the pressure that came from the employees and from party agencies.

The former retired Director of Aussig was a half-Jew. His son remained in the plant. The chief lawyer was married to a Jewess, and he remained in the plant. Furthermore, a number of people remained who were said to have pro-Czech tendencies, beginning with the Aussig Plant Director Homan and the Prokurist Schmidt, whose signatures appear on Prosecution's Exhibit 1118.

After all the events of those times, I would say concerning the effects of this Commissariat from the human point of view, the fact that a correcting mitigating influence was present from Germany proper prevented much suffering, much harshness, and much injustice.

Q. Mr. Kugler, you have referred several times to the fate of your colleague and co-commissar Brunner. I believe it would be appropriate if you could say a few words about that now.

A. Until the time of the Anschluss, Engineer Brunner was plant director of the Prager Verein in the Falkenau plant. Certain Sudeten-German circles suggested him as the technical commissar instead of

Dr. Wurster. He was appointed as such. Already during the first weeks of our joint activity opposition could be felt in the Falkenau plant. He was reproached with having Jewish friends, and he sympathized with Czechs; Sudeten-German pressure became so severe that the Reich Ministry of Economics, approximately in the middle of November 1938, recalled Brunner from the position of Commissar, assigned to me the sole management, and left Brunner as my assistant for technical advice.

The campaign against Mr. Brunner did not stop, however. In the Falkenau Plant approximately 600 affidavits were collected to prove the charges against Mr. Brunner.

The operation in Falkenau was colored by the fact that the brother-in-law of Konrad Henlein was working in the plant.

I collected counteraffidavits. I negotiated with the party agencies in Reichenberg and Falkenau. I presented the evidence that I had collected.

The answer that I was given during one of these negotiations was as follows: "We are not concerned with justice or injustice. Whether Mr. Brunner goes or whether he remains is a political question."

The Aufsichtsrat of the new firm, Chemische Werke Aussig-Falkenau, expressed its confidence in Mr. Brunner, particularly because of my recommendations and judgment.

When, on 1 March 1939, I resigned from the Commissariat and turned over the plants to the new owners, Mr. Brunner was appointed as plant leader by me, or at least he was named as such in the publications.

A few days thereafter the Gestapo arrested Mr. Brunner upon instigation of the Reichenberg party agencies. Mr. von Schnitzler and Geheimrat Jungel, of the Chemische Fabrik von Heyden, went to Reichenberg as a result and negotiated with Gauleiter Henlein. A compromise was agreed upon. Another gentleman, a Reich German, became plant leader. There was no other Sudeten-German candidate.

Mr. Brunner was released from custody. He had to take a leave lasting several months. He was then permitted to return to Aussig as an ordinary employee to start work there; and he and the firm had to obligate themselves that he would never again enter Falkenau, the place where he had worked for twenty years.

I have gone into detail in the Brunner case because it seems to illustrate, at least in my opinion, all the events that took place at that time. Unfortunately I cannot prove the Brunner case with the assistance of any documents, for the file in which I collected all of these happenings cannot be found. It is one of those files that was not transferred to Griessheim; we discussed this matter with the

Prosecution in September. The file also contained the objection by telegraph of the Reichenberg party agencies to the Aufsichtsrat of the Chemische Werke and a letter from the Gauleitung of the Party or the German Labor Front to the Aufsichtsrat, in which they complained about me because of my attitude in the Brunner case.

Q. Dr. Kugler, a short while ago you mentioned an international committee that was appointed to settle the disputes that might arise from the secession of the Sudeten-German territory.

A. Several committees were appointed for boundaries and other questions. The one I mean committee B for economic and financial questions. It was under the chairmanship of Ambassador Ritter, and once it there were represented Great Britain by MacGowan, France by Attache Aris and Consul Baudier, Germany by Herr von Mabeben, Czechoslovakia by Minister Peroutka, and Italy was also represented.

Q. Please tell me, was this committee consulted regarding your commissar activity?

A. Yes. I believe it was in October 1938 that I had a conversation in Berlin with the German delegate. I explained to him the emergency which had arisen in the plants under my charge because materials necessary for the operation of the plant, such as electordes, had been evacuated and dismantled. The Aussig Plant also had hardly any railroad cars for transporting acids and alkalis. These were railroad cars owned by the plant which had been transferred to the interior of the country by order of the Prague directorate before the area was handed over.

I asked that my efforts be supported, that the Prague directorate should at least turn over the material that was necessary for the immediate operation of the plants. Such questions were under the jurisdiction of that committee.

To illustrate the situation I may perhaps quote a short passage from the prosecution's Document NI-13556. That is the affidavit of the

former director general, Dr. Basch, who mentions this subject. I quote from page 13 of the German text, the end of the first paragraph: "In the Munich agreement of 29 September 1938, which was signed by Germany, Italy, Great Britain, and France, it was stipulated that all plants in the territory to be occupied by the Germans should remain intact and that all materials should remain there. But I gave exactly the contrary instructions to these plants; with the assistance of the Czech government we took out everything from these two plants that one could possibly take away -- even machines were transported away. Farbon knew of this, and it was discussed during the conference, but no serious attempt was made to enforce the return of the evacuated material and equipment."

Q. Mr. Kugler, I consider it important to find out from you whether this committee declared itself to be competent for this matter and whether it made a factual resolution about this matter.

A. The committee declared itself competent for my request. Mr. von Makebon took up negotiations with Minister Peroutka. But the entire action came to naught because a few weeks later the negotiations of the Prager Verein started with the two German firms. The purchasing contract was concluded on 7 November 1938; and after that agreement was concluded some of the material was returned. Railroad cars were loaded to us by Germany, and the original difficulties were provisionally settled.

Q. You did not learn of any actual decision of the committee because --

A. The developments superseded the original request.

Q. Did you discuss these difficulties directly with the management in Prague?

A. Yes. About the beginning of November, during a conference in Prague, General Director Dr. Basch informed me that President Preis, the Chief of the Zivno Bank in Prague, intended to take up a number of

questions with the government committee. They were to refer partly to the basic question of the appointment of a commissariat, as Mr. Basch told me, and partly to certain questions of my tour of duty. On 5 November 1938 — the conference with Mr. Basch took place on 4 November — I informed the Reich Ministry of Economics, as a matter of precaution, about this piece of information. I requested of the Ministry of Economics that if such a complaint were lodged I should have a chance to justify myself.

For the rest, however, I asked President Preiss, during my next presence in Prague, to grant me an interview about this affair. That talk took place on 22 November 1938, with four people participating — namely, President Preiss, Dr. Dvoracek (who was on the witness stand here), Dr. Basch, and me. It is the same conference about which you cross-examined the witness Dvoracek here, and the same conference referred to in my final report of 26 May 1939 to the Reich Ministry of Economics.

Q. Please describe this conversation in Prague briefly.

A. I explained and informed those present about the various points that they were complaining about. The conference ended by President Preiss expressing his satisfaction with my explanations, he said something like this: "You may sometimes have acted a little conservatively, but you always acted correctly." I answered him: "The reason why I asked for this conference was to hear you say that."

When we parted that evening, President Preiss told me, in the presence of the other two gentlemen, in his kind and jovial manner: "Look here, I am an old man. Since 1914 I have experienced a number of political upheavals. Let me, the old man, give you, the young men, a piece of advice. Never again accept such an ungrateful job."

The description of this conference may corroborate the spirit in which the negotiations were conducted. How right the old gentleman was in his opinion of such positions I learned in its full import only ten years later, however.

Q. Mr. Rugler, I now turn to something else. Approximately half an hour ago you mentioned the integration of the Aussig dyestuffs production with the International Dyestuffs Cartel. Was the international cartel informed of the changes which took place in the autumn of 1938, and how did the members of the cartel react? Did the Swiss or the French or the British express any doubts about their legality, and did they, as a result, refuse to discuss these changes with Farben?

A. No, that was not the case. The tar-dyes plants in Aussig (Teerfarbenwerke Aussig) has been incorporated in March 1939. The Teerfarbenwerke Aussig were the consolidation of those parts of the Aussig plant which manufactured tar dyes. The Teerfarbenwerke Aussig were a pure subsidiary of Farben, while the Chemische Werke Aussig-Falkenau were operated fifty percent by Farben and fifty percent by von Heyden. During the last meeting of the cartel in Paris, before the outbreak of war, on 21 June 1939, in the presence of the French, the British, and the Swiss — that is in the quadripartite cartel — all questions were

discussed which dealt with the acquisition of the dyestuffs plant of the Auezig plant by Farben, for the existence of the former side agreement with the cartel and for the orientation of the cartel. You, I think, intend to offer the three-page minutes of this meeting as Document 50, Dr. Kuntz; I believe from these minutes it can be seen rather clearly that the three other partners in the quadripartite cartel did not express the slightest doubt as to the legality of the transaction or the fairness of Farben's activities.

Q. Mr. Kugler, another subject. You were trustee and commissioner until into 1939. Did you participate in the purchasing negotiations of 7 November 1938 between the Farben and Chemische Fabrik von Heyden on the one hand and the Frager Verein on the other hand?

A. No. As a trustee appointed by the Reich Ministry of Economics, I had to remain neutral, and accordingly I did not participate in the negotiations of 7 November 1938.

That was the meeting of the representatives of the Verein on the one hand and representatives of Farben, von Heyden, and the Dresdner Bank on the other hand. These negotiations led to the basic agreement that the two plants be sold. On that day the so-called preliminary agreement was concluded and the purchase price was finally set.

Around the middle of November the Ministry of Economics gave me permission, when the final agreement was being worked out, to join the group of Farben and von Heyden. That was done. I participated in the negotiations in Berlin in December 1938, so to speak, as an expert on Auezig. I also participated in the final main contract.

Q. From the documents it can be seen, Mr. Kugler, that you yourself made application to the Ministry of Economics, that you should be relieved of your duty, in part, at least, in order to participate in these purchase negotiations in December.

A. That is correct. I did that because I was neutral and because I wanted to observe my obligation.

Q. That is a little contradiction in itself. Can you explain this contradiction?

A. Yes. Immediately after the preliminary contract of 7 November 1938 was concluded, Frankfurt and Dresden — that is, Farben and von Heyden — called me on the telephone or wrote to me, requesting me to give them certain information and to make available certain documents to them. If one looks at the final purchase agreement of December 1938, one can see what a lot of material is worked out in it — descriptions for pages, of real estate, mines, the establishment of quotas, of conventions, and so on. All of these were data that could be obtained only from the files in Aussig. But my obligation to remain neutral precluded making available those documents.

On the other hand I had to realize that the main contract could not be concluded unless I made those documents available. I promised Frankfurt and Dresden to present my dilemma to the Economic Ministry and to ask the Ministry of Economics for a decision, and the Ministry of Economics released me to assist in working out this contract.

MR. SPEECHER: Mr. President, just before the recess, if I might raise just one point with Your Honors while Dr. Mueller is here.

We have been having a great problem together, and we have worked at it as a common problem, in getting the corrections to the transcript typed. Now, particularly in the defense case, since many of the defendants know English so well, they have made a very large, substantial number of corrections, and I think most of them are very good corrections. But we will have to ask your assistance to somehow help us in the mechanical problem of getting those taken care of.

THE PRESIDENT: Very well. We will give some consideration as to how to accomplish that with the least possible use of time and help you to work out some program. The Tribunal will now rise for its morning recess.

THE MARSHAL: The Tribunal is again in session.

DR. WAGNER: I am representing Dr. Berndt. Dr. Berndt asks that his client, Mr. Mann, be excused from this afternoon's session in order to be present during the Commissioner's hearing.

THE PRESIDENT: Very well; that request is granted.

Pardon me just a minute, counsel. Dr. Buotefisch will be excused from attendance this afternoon also.

HANS KUGLER -- Resumed

DIRECT EXAMINATION (Continued)

BY DR. NEIZE (Counsel for defendant Kugler):

Q. Mr. Kugler, in another passage you have been charged with having intervened on your own initiative in sales negotiations. Paragraph 95 of the indictment states the following:

A. May I interrupt you? I must add something to the report to the Ministry of Economics of the 26th of May 1939 which we have been discussing before the recess. I must make this remark in order to avoid misunderstandings when judging this report of the 26th of May 1939.

When considering the wording one must take into account that this report was written in the spring of 1939. The letter was addressed to the ministry of economics but I must also consider that this report would be made available to other official agencies -- in particular, Party agencies.

If for instance, in another passage I write that the personnel of Aussig was suspended from service and went to Prague and if, on the other hand, I write that German personnel in Czechoslovakia expressed the desire to go to Aussig I phrased this knowingly in that manner. We were not interested in making any subsequent trouble for the Prager Verein. Such difficulties, however, would have possibly arisen if I had written in this report to the Reich Ministry of Economics that the Verein had had the intention and had realized it to expel

the Germans from the rest of Czechoslovakia.

I am only mentioning this example in order to avoid that this or other passages of the report would lead to misunderstandings about my attitude and position. I hope you will forgive me for interrupting you.

Q. We were speaking before about your participation in sales negotiations. I wanted to refer to another charge in this connection contained in the indictment, the charge that you as public commissar of the plants made a suggestion to the business management of the Prager Verein according to which the plants were to be sold to Farbon. May I ask you to state whether that is in accordance with the facts?

A. With respect to this paragraph 95 of the indictment, I can only say that I did not participate in the negotiations with respect to the sale of the two plants. That can be seen from the minutes of the meeting on the 7th of November 1938. It is stated in the indictment that on the 29th of October 1938 I negotiated in Prague about the sale of the plants. That is in no way correct. On the 29th of October I was not in Prague. It is true that I was in Prague before 7 November—the date of the preliminary contract. My assignment of necessity included the need to get in touch with the owner of the plants, that is, the Prager Verein. A number of questions had to be solved: the business management, agreement on the turnover, the disposal of credits at home and abroad, and so forth. Such questions could only be solved by getting in touch with those people who were the legal owners and in that case it was the Prager Verein. As soon as the telephone connections between the Sudetanland and Prague had been restored and once all the formalities had been settled with respect to crossing the new border into Czechoslovakia, I went to Prague.

The first conference with the Prague General Directorate took place on the 25th of October 1938. The Prosecution's affiant is mis-

taken if he writes in NI-13556, on page 9 of the German text, I was already in Prague on the 12th of October. That didn't go so quickly.

On the 4th of November 1938 my second conference in Prague took place. At both these conferences, which took place before the conclusion of the Berlin preliminary contract, and quite irrespective of the intervention of both German firms pertaining to the purchase, I made a number of agreements with the General Directorate in Prague. These agreements, among others, concerned the sale of the products of the Aussig and Falkenau production in the territory which still belonged to Czechoslovakia.

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On the other hand, the Prague directorate ordered the Aussig Sales Central Agency, which had been formed by the commissars, to sell the products of the Czech factories in the new German territories. Furthermore, agreements were made with respect to the settlement of the foreign sales and disposal of supplies, outstanding credits, etc.

Q These were, then, negotiations which were necessary because the Aussig and Falkensu plants were parts of the Verein, the directorate of which was in Prague.

A Yes.

Q Now, I shall come back to my original question. Did you participate in these negotiations on the first and second visits, as the indictment says, and did you discuss the sale of these plants?

A Neither during the first nor during the second conference did I, either on my own initiative or by order of Farben or von Heyden, discuss the sale of the plants with even one word. Among the Prosecution's material I could find no document which sustains the assertion made in the indictment in any way whatsoever.

Q You just mentioned that you didn't do so "on your own initiative." Am I to understand that the other side, the Prague gentlemen, discussed it?

A I cannot say today whether the Prague gentlemen discussed the fate of the plants in any way. It is possible that these gentlemen made some hints and wanted to hear something from me. You must take into consideration that Mr. Dvoracek as well as Mr. Mueller von Ritschels have said in this courtroom that the Prager Verein itself had misgivings as to whether it could continue to operate the plants. The Prosecution affiant Mueller even went as far as to say that according to his recollection the first discussions with the Prager Verein pertaining to a joint company took place at Aussig. Since Aussig was occupied on 9 October by German troops, this conference must have taken place at the end of September or the beginning of October, because after

that the Prague general directorate was no longer at Aussig.

Q Mr. Kugler, I now want to put a number of questions to you pertaining to the sales. When the purchase price was set during the November meeting, you were not present, were you?

A No.

Q But you were informed afterwards, were you not?

A Yes. That was necessary. I had to be informed about the details of the prices and about the form of the payment, because these details went like a red thread through the negotiations for the main contract as well as through the later execution and handling of the contract. A number of these details which I learned later I set down in an affidavit prepared at the request of Mr. Rudolf, a member of the Frankfurt staff of the Prosecution, in February 1947, before I was arrested for the second time. In drawing up this affidavit, I gave Mr. Bhaller (of the Frankfurt staff of the Prosecution) on 18 February 1947 copies of two statements which I made in the summer of 1945 for the Bernstein Committee, which explained the entire contract structure in detail. I mention the latter by the way. He forewent the introduction of these two documents.

Q I should once more like to discuss briefly with you how the purchase price was fixed. According to what you have said just now, you should be able to give us, in addition to what you have already said, an over-all picture.

A Both partners arrived at the November meetings with certain ideas of what price was to be asked and what price was to be offered. These ideas at first were probably somewhat far apart. In order to get some firm ground, as it were, Dr. von Schnitzler suggested to start out from certain experience. These rules of experience in evaluating chemical plants as "going concerns," say that in an enterprise where mixed organic and inorganic production is carried out the capital is turned over about once a year. That is

to say, the yearly turnover is approximately in correspondence with the invested capital, which in turn means the value of the enterprise as a going concern. The Verein accepted his proposal and presented its turnover figures. The details are contained in Document Zuglar 57, which you will introduce. This is the affidavit which I drew up for Mr. Rudolf. In view of the Tribunal's ruling of 22 April, I can be relatively brief. I refer to the list in this affidavit, and I should like only to explain two matters in order to make this list understandable to you, so that you may understand the figures appearing therein.

Of the entire turnover of 320 million crowns mentioned by the Verein, a deduction of 20 millions is made for coal turnover. I should like to explain that deduction and connect it with the addition of 50 million for coal and mines. A coal mine cannot be evaluated according to the same principle -- turnover equals invested capital. Coal, which is buried beneath the earth has not the same value it acquires when it is ready for sale. Coal which I dig out of the earth after thirty years has not the same value as the coal which I dig out today. That is why there was a deduction of 20 millions for the coal turnover, and the value of the coal which was still underground, plus mine facilities, was added at 50 million. In this list in Zuglar affidavit 57 I should like to explain one more entry briefly. This is the deduction of 100 million crowns from the turnover. That is due to the following fact.

Farben and von Heyden, in conducting the sales negotiations, forewent the business the rest of Czechoslovakia -- Bohemia, Moravia, and Slovakia -- which the Verein had had up to that time in Aussig and Falkenau products. The Verein reserved the right to effect this turnover from plants to be newly established or already under construction in Czechoslovakia. Farben and von Heyden obligated themselves to deliver the products to the Verein as long as it was not

in a position to sell from its own new production. The Verein, furthermore, in connection with this deduction, had received a claim to technical assistance in the construction of the new factories in Czechoslovakia. From this interplay between deductions and additions, one arrived at a calculated value of the two factories amounting to 250 millions, and then one argued backwards and forwards, and finally, as I am informed, Mr. Dvoracek made the proposal to agree on 280 millions. That was done.

Here again I may briefly refer you to the affidavit of Dr. Basch, NI-13556. Dr. Basch is mistaken when, on page 12, the second paragraph of the German text, he places the date of the fixing of the purchase price at a later meeting. He is obviously confusing that conference with the December conference. It is also incorrect when, on page 14, he writes that the purchase price was 250 million, actually it was 200 million.

Q You just mentioned that the purchasers waived the business of the rest of Czechoslovakia, that the Verein had the right to construct a factory to meet this demand. Were the plants already under construction at this time and were they later completed?

A Long before the Munich Agreement I believe in 1937 the Verein had already started construction in the south of the country - Aussig and Falkenau are located in the north - two of large factories namely Handlova and Novaky. The production program of the two plants approximately equalled that of Aussig and Falkenau. Partly, these plants were subterranean for military reasons, as we later learned.

It seems to me rather obvious that the Verein because of the constant tension with respect to the Sudetengau, decided not to concentrate its production in the north.

Q Another question for clarification. What was the situation in the international, and particularly the European chemical market with respect to the sale of products of such newly constructed factories? Could the Verein expect to find new markets for these products or was the position of the individual producers stabilized de facto or by conventions?

A The latter was the case. When, in 1937, the Verein decided to construct new factories in the south of the country, it had to take into account that the sale of the products of these new factories would be more or less charged against its old factories. This fact was also to be considered in making the estimate.

Q Another point. In # 4 of his affidavit, Devaneck says that the Aussig and Falkenau plants represented about three quarters of the turnover of the Prager Verein at the time. During the Berlin negotiations in November 1938, the turnover of the two plants, not counting the coal turnover, was estimated at approximately 300 million Czech crowns. Accepting the statements contained in that affidavit, the entire turnover of the Verein would accordingly amount to 400 million Czech crowns. As far as I am informed, the entire turnover of the Verein was actually higher. Could you explain that?

A This apparent contradiction can easily be explained. The Prager Verein was as it were, not only was a production company but also a holding company. If the roles of the two plants Aussig and Falkenau are to be explained within the framework of the entire concern, one has to take into consideration the turnover of the concern companies. The turnover of the entire concern, inclusive of the concern companies at that time amounted to approximately 600 to 700 million crowns; you have to relate this amount to the 300 million which you have previously mentioned.

Q I should like to put one more question with respect to these proportions. When Mr. Dvoracek was examined here on November 1947, he stated that the Aussig and Falkenau plants amounted to approximately two-thirds of the balance figures. Would it be correct to relate the purchase price of 280 millions to the balance sum?

A No. The amount of 280 million crowns represents the value of the two plants as going concerns. Considering this excerpt from the entire holdings of the Prager Verein, the silent reserves come into appearance externally. When however, considering the balance figure, not only the Aussig and Falkenau plants but also the rest of the holdings appear with proportions which, as a result of amortization and reserves, do not represent the value of the firm as a going concern and do not represent the internal value.

Consequently, Mr. Dvoracek is trying to compare two proportions which are not at all comparable. The figure two-thirds of at which he arrives has ther fore no practical significance whatsoever. For the considerable significance of the reserves of the Prager Verein, which completely distorts the balance figure and makes it unusable for any such comparison, I should like to refer to the affidavit of Dr. Basch, NI-13556. On page 3, the last paragraph of the German text, Dr. Basch writes on this subject.

Q To get away from figures, let me ask you: Is it true, in your opinion, that the Verein, after the sale of the two plants Aussig and Falkenau, was undermined and lost its main substance?

A No, that is incorrect. The Verein remained the prominent chemical concern of the rest of Czechoslovakia or the later Protectorate. Furthermore, there remained untouched big holdings in the individual southeastern countries. In the chemical economy these countries it constituted, as before, a very considerable factor.

Let me refer you to the so-called "friendship letters," which were exchanged on 7 or 8 December 1938, between the German and Czech groups. In the sense of these friendship letters, the Verein, together with Farben or with technical assistance from Farben, expanded its activity in Czechoslovakia, after 1938, constructed new plants. Other gentlemen have already testified about that at length that I need not go into it now.

Q In discussing the affidavit of Mr. Dvoracek, one point is rather conspicuous, about which I want to ask you now. Under # 5 of this affidavit it is stated that after the occupation of the Sudetenland the leading Czech employees were immediately dismissed. Then you arrived at Aussig, did you find all the leading Czech employees still there?

A. No. Part of these gentlemen had already left for Prague. I am thinking in particular of Dr. Srp, the head of the organic sales department.

Q. Another question: at another point you have already mentioned that the Prager Verein from the beginning of the 1930's to an increasing extent started to employ Czechoslovakian personnel in the Aussig factories instead of the Sudeten German personnel which was indigenous there. Could the assignment to the technical directorate of Dr. Ettel who was formerly a colonel of the Gas Department of the Czechoslovak Ministry of War, be interpreted to that end, and also the replacement of the German director, Dr. Meyer, by Dr. Basch?

A. Yes, this tendency was expressed in filling higher as well as lower vacancies. The result was that the tensions after and before the annexation were particularly strong at Aussig.

In connection with your question I should like to refer to one other matter. I should like to point out the change in the Charter of the Verein in 1936. The Charter was changed to the effect that the president and one of the two vice presidents of the company, as well as at least two-thirds of the Executive Council, had to be Czechoslovakians. This also becomes apparent from Prosecution Exhibit 1042 in Book 51, page 91 of the English version.

Q. A quotation from the Dvoracek affidavit reads as follows: "Whoever could have taken charge of the plants on behalf of the Verein was forcibly dismissed".

My question: Did the Verein after the annexation no longer have any person in the plants in whom it could have confidence?

A. Oh, yes. The Prague directorate, in the second half of September, that is to say, before the annexation, sent its director Engineer Neumann from Prague to Aussig with the express order to take over the management of the Aussig plant on behalf of the Prague

Verein in case of territorial changes.

Q. Did Mr. Neumann remain at Aussig while you were the commissar?

A. Yes. On the evening of my arrival at Aussig, October, 1938, Mr. Neumann visited me at the hotel. He explained to me the orders which he had been given from Prague. I in turn explained to him the orders which I had been given: to act as trustee, together with Brunner, of the plants and the mines.

On the same evening I consulted Mr. Brunner, who had personally known Mr. Neumann from his former activities, and on the same evening we informed Mr. Neumann of our decision that we were agreed that he should take over the management at Aussig under the commissars. That is, he would be the chief plant director. He stayed at Aussig up to the time the Commissars left and even beyond that; and he did so against the resistance by some members of the staff and by party agencies. They thought that the assignment of Mr. Neumann to Aussig from Prague proved his unreliability.

Mr. Neumann remained at Aussig until 1945. After the German troops left he still remained there. He, so to speak, returned the plants to the Verein, and some time later, contrary to the advice or the offers of his Czechoslovakian agencies, he left the Sudeten territory and is probably in England, after having stayed in the American zone for some time. You will introduce an affidavit by Mr. Neumann.

Q. Mr. Kugler, when did the Verein transfer its seat to Prague?

A. The Verein transferred its seat from Aussig to Prague in 1937; as was generally assumed, this was in connection with the unfavorable relations between Germany and Czechoslovakia, which were already recognizable at that time. That also becomes apparent from

the affidavit of Mr. Dyoracek, Paragraph 7.

Q. Concluding my examination with respect to that subject matter, I should like to ask you the following: You turned over the two plants to the new owner on 28 February 1939, as of 1 March 1939. That meant that your trusteeship administration had ended. The contract of sale was concluded on 17 November 1938, or in December 1938. Would you please quite briefly give the reasons why you continued that activity up to the date I mentioned?

A. For one thing, it was necessary that the new owners should settle their relationship among each other. There were contracts and collateral contracts between Farben and Heydon, and so forth. This was at the beginning of 1939.

There was another reason, however, why I remained commissar for more than two months: that was that the German as well as the Czech side had to approve the contract of December 1938. I may refer to Roman numeral X of the main contract, in which official approval of both governments was a requirement. The main contract is Prosecution Exhibit 1116, Book 54, English page 73.

Q. Mr. Kugler, you have just described this development. Did you feel at the time that what was done by Farben meant preparation for a war of aggression?

A. No.

Q. For a few months you were active in the management of the Aussig and Falkenau plants as a commissar. During that time did you make any changes in the production program of these plants in the sense that you assigned priority to products which could serve for the waging of a war of aggression?

A. No. For that reason, in the whole transactions, I could see no connection whatsoever with any belligerent act or any thought of aggressive war. I still can't see it today. Let me point out one thing. If the assumption of the Prosecution were correct, that an aggressive war or further aggressive actions were contemplated and that the acquisition of those plants was connected therewith, one certainly would not have proposed a businessman for the position of a commissar - a specialist, a dyestuffs salesman. One naturally could have attached importance to placing a qualified expert in that position. When the Ministry of Economics or the Sudeten German party said, "We want Mr. Brunner there", they would not have said, "Naturally we shall withdraw our proposal for Mr. Wurster". That alone is proof. And now to the other question, with respect to production. Here again I can give you information, covering the time I was active as a commissar - from October 1938 up to March 1939 - and also the later time, for after March 1939, I was a member of the so-called advisory council of the Aufsichtsrat of the chemical plants, and also the business manager of the subsidiary company, the tar dye factory. From 1939 to 1945, the tar-dye plant managed to just about "muddle" through. The dye-stuffs facilities were not very modern, on the whole, and during the war those dyestuffs were produced which could possibly be produced in view of the general situation.

Two new products were started in the tar-dye factories; one was a protective substance for rubber, phenyl betanaphtylamine, and the second was a synthetic substance for the cable industry; that is, "Brehm-wasche". That shows the activity or inactivity of the tar-dye factories in military production. As far as the main chemical production of Aussig and Falkenau are concerned, I made a statement to the Bernstein Committee in the summer of 1945. I have a copy of that statement before me. It is on, the whole correct, but I should like to correct just one point here. At that time I said that the production which might serve direct or indirect military purpose was the following, and I mentioned at first the expansion

of chlorine electrolysis; second a hexa-chlorine-ethane plant, which is a smoke-screen substance; and third, the carbon disulphide substance. (I mentioned that it was a preliminary product for the artificial fiber industry); and finally I mentioned the intended expansion of carbide production. One matter is correct in that statement, that is, the hexa-chlorine-ethane plant, which was war production. It was started in 1942 on the basis of a contract with the Reich of 5 February 1942, which provided that the Reich would supply the machines and installations; that the buildings would be constructed by the firm, but financed by a loan from the Reich amounting to one and one-half million marks. In speaking of the expansion of chlorine electrolysis, I erred somewhat in my earlier statement, because only a part of the expansion was devoted to hexa-chlorine-ethane. I should not have carbon disulphide at all in this connection. For it is incorrect to say that carbon disulphide is a military product. You could take any civilian product and say it could be

a military product. Finally, carbide production was never expanded because there was no iron or other material available. I think that is all.

Q.- Having concluded that subject, I should like to submit some documents in connection with these events: As Exhibit 29 I offer document 28, excerpts from a paper entitled "European Politics, 1933-1938, in the Light of the Prague Files". It is a publication of the German Institute for Foreign Policy Research. These excerpts originate from the files of the Prague Foreign Ministry.

MR. SPEICHER: Mr. President, I think we should make an objection, at least pending certain understanding as to what counsel's purpose may be.

Will you please turn in that connection to page 9 of the document book? You will notice that this is a publication which was published in 1942 by a German Publishing House subject to the controls of the Goebbels Ministry, and no doubt in this instance the Ribbentrop Ministry, since it purports to talk about certain foreign political developments.

Now, the excerpts which counsel has included are headed, as you will note if you will turn over on pages 10, 11 and 12, with certain written-in headings which I suspect weren't included in the text of the original reports; and, of course, whether or not any editing took place with respect to what is allegedly a report of Czech military attache is another matter.

Now, with respect to the question of aggression, we would like to have this document in evidence. I mean I just want that to be clear, because if you take a look at page 12 under the heading, "Henderson is convinced that Berlin wants to obviate war", I don't think it takes much imagination to see why we feel that way, but the only thing I can see that these documents are offered for, or could be offered for, is to show a justification for the threat of aggression which so clearly appears on page 12 of this document, and what those threats of aggression by Hitler led to with respect to representations by the countries who were seeking time to meet the further consequences of such threats of aggression.

Now, if that becomes an issue at this point, I think that the trial would indeed be on some side issues, and I would really like to know what counsel's position is. Is it that these documents were known to these defendants at the time? That there is a justification for a threat of aggression such as is announced in these pages? Or what?

THE PRESIDENT: Mr. Prosecutor, let us first understand: Are you or are you not objecting to the introduction of the document? If you are not objecting, counsel for the defense is under no obligation to argue his case at this time by stating the purposes of the document. If you are objecting, the Tribunal would be interested in knowing for what purposes the documents are being offered, so that we can determine whether or not we think that they are competent. Are you making an objection to it?

MR. SPECHER: Mr. President, I wanted to make an objection, and I did want to state the problem I had, so that counsel could reply more specifically.

THE PRESIDENT: You did say something about that you would like to have them in evidence, and that is the reason for my remarks. I would like to know whether you do or do not object to them.

MR. SPECHER: No, I merely meant to indicate by that that our position was being taken because we don't see that it is helpful in this particular case on what is narrowly before us.

THE PRESIDENT: The objection is overruled, and the document is in evidence.

DR. HENZE: I may state in connection with this document that it is not my intention to assert that my client knew these reports. The fact that these reports were found in the Prague Foreign Ministry shows that they were not known to my client at the time he was Commissioner.

I have submitted these excerpts to the Tribunal in order to present a picture of the historic developments at the time, in order to prove that my client and other persons who participated in these events in 1938 had to see things in a different light from the way matters are now seen by the Prosecution. Public opinion at the time considered the problem in Czechoslovakia a population - political problem which had already been acute for decades and centuries.

I have introduced these documents to point to this historical background.

The second document will become Exhibit 30. It is Document 29. This is the final report which the English envoy, Lord Runciman, sent to the British Prime Minister 21 September 1938.

The introduction of this document is to serve the same purpose.

The third document in this connection is Document 30, which will bear exhibit No. 31. This is a verbatim copy of the so-called Munich Agreement which was signed by the British Prime Minister Chamberlain, the French Premier Daladier, Mussolini and Hitler.

The next documents which I should like to introduce, deal with my client's activities in his capacity as Commissioner at Aussig and Falkenau.

The first document, Document 31, will become Exhibit 32. It is the affidavit of Walter Neumann, a leading employee of the Verein for many years. This Neumann was transferred by the General Directorate of the Prague-Verein to Aussig before the Munich Agreement, to take over the management there in case of a territorial change. In other words, he was a confidential agent of the General Directorate in Prague.

Mr. Neumann in many points confirms what my client has just testified.

He makes some statements about the question of the dismissal of personnel, and he says at the end: The transfer of all persons who were sent to Prague was loyally supported and made easy by the Commissar management.

Mr. Neumann goes on to say, "Dr. Kugler behaved very correctly in his position".

I may point out that Mr. Neumann remained in Czechoslovakia until 1945. He says that the Czechs did not reproach him for that at all. On the contrary, he was advised to stay there. He received the so-called antifascist certificate and then left Czechoslovakia.

The next document is Document No. 32, which will be Exhibit No. 33. This is the affidavit of a Farben employee, Ernst Dannenberg, who accompanied my client on his trip to Aussig.

The next document is an affidavit of the former employee of the Prager-Verein, Emanuel Sedlatschek. This is Document 33, which will become Exhibit 34.

In particular he reports on the personnel changes about which my client has spoken here. He states that there was a real migration in the Sudetenland at the time.

Document 34 will be Exhibit 35. This is a letter sent by the Verein to this man Sedlatschek on 19 October 1938, in which Sedlatschek is dismissed from the services of the Prager-Verein. This dismissal occurred because he was a Sudeten German.

I should like to parallel the Prosecution's Exhibit dealing with the converse case with this exhibit.

As Exhibit 36, I now offer Document 35. Again it is an affidavit of a former employee of the Prager Verein, who had worked for the Verein since 1914. Mr. Sedlatschek (sic) submits a list of those persons of Sudeten German origin, who were dismissed by the management of the Prager-Verein, or were transferred to Prague (sic). He lists 82 persons. I offer this list as a parallel to the Prosecution's Exhibit which contains a list of persons transferred from Aussig to Prague or dismissed.

I should like to point out that the personnel department of the Prager-Verein could give a complete picture because it has all of the files in its possession; in the converse case, it is extremely difficult to obtain a list of all of the persons in question. The list would probably be much longer had we had access to the files at Aussig.

THE PRESIDENT: Before we recess, may I say for the Tribunal that the defendants Ilgner, Mann, and Gattinanu may be excused from attendance here this afternoon to be present at the Commissioner's hearing if they wish.

Did you have something to say, Dr. Nelte?

DR. NELTE: Your Honor, I went to the Security this morning to inquire about Professor Herlein's transfer to a hospital. I was told that no Court order had been received there as yet with respect to that matter. I then tried to find out something about this from the Medical Department, where I was also told that no court order had been received yet. Perhaps, Your Honor, you would see to it that these Departments may be informed today, because the hospital is expecting Professor Herlein tomorrow.

THE PRESIDENT: That order went out yesterday. It was signed and filed in the office of the Secretary General. I will have my Secretary check immediately after we recess, and see that it got to the place where it belongs.

The Tribunal will rise until one-thirty.

(TRIBUNAL IN RECESS UNTIL 1330 hours).

AFTERNOON SESSION

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Just a moment, counsel, I wish to make two announcements. Dr. Maltz, I checked on the order with reference to your client, Dr. Herlain, and the order went out yesterday and I followed it through to the Defense center. It was there at noon so I think the matter will take care of itself very promptly if it has not already.

With reference to the matter of the correction of the transcript concerning which the Prosecution spoke this forenoon, it is the view of the Tribunal that the better way to handle that matter would be for counsel for the Prosecution and Defense to join in a stipulation as to the corrections that are agreed upon. We shall order that stipulation filed and made a part of the record in this proceedings, and we shall also direct that it be processed, translated and mimeographed without prejudice to the outstanding priorities and the other priorities that may arise concerning documents necessary for the conclusion of the evidence.

You may proceed, counsel.

DR. HENZA: Mr. President, I want to say a few words about the last document, No. 35, which is my Exhibit 36. I made a mistake before, and for clarification I should say that it is a list of those persons who were dismissed from the employment with the Prager-Verein, and who were returned to the German Reich.

The next document will be my Document 36, which I offer as Exhibit 37. These are two police permits which I offer in order to show when my client had the two conferences in Prague, with the Directorate General of the Verein.

The next Document, 37, which will become my Exhibit 38, is a report of my client to the Reich Ministry of Economics about a Conference in Prague.

In the next document, No. 38, which will become Exhibit 39, my client made a file note for the internal use of the office, about his discussions in Prague.

The next document, No. 39, Exhibit N. 40, contains the minutes of the meeting, etc., of the discussion that took place on the second trip in Prague. These minutes have been signed in the original by both parties, including the people from the Directorate General in Prague.

In the next Document, No. 40, Exhibit N. 41, Reich Ministry of Economics gives authority to the Commissioner Management to aid the two parties in drafting the contract.

The next Document, No. 41, which is Exhibit 42, is an affidavit of the then official of the Reich Ministry of Economics, Dr. Hoffmann. I offer it in order to show the reasons for which my client made the application to be partly released from his duties as a Trustee.

The next Document, No. 42, Exhibit 43, is a letter of my client dated 26 May, in which he transmits a final report to the Reich Ministry of Economics. The report itself is contained in the next Document, 43, which will become Exhibit 44.

In the next Document, 44, Exhibit N. 45 the Reich Ministry of Economics confirms the receipt of the report. That letter is again meant to identify the previous document, the report.

The following documents deal with the purchase of the Aussig and Falkenau plants by the two German firms, I.G., Farben and von Heyden. The legal basis for the intervention of the Reich Ministry of Economics can be seen from the first two documents, Nos. 45, Exhibit 46, and 46, which will become Exhibit 47. I refer particularly to the fact that in the second document, which as it were, is a Decree of the German Reich, that the outright purchase or acquisition of any enterprise in the Sudeten-German area is not permitted without the approval of the various Ministries concerned.

The Economic Ministry had commissioned the Dresdner Bank to prepare purchase negotiations as a Trustee. This can be seen from the next Document, 47, which will become Exhibit 48.

The next document, No. 48, Exhibit No. 49, is a letter of the Reich Ministry of Economics in which the latter gives the necessary permission, the need for which can be seen from Document No. 47. Since it has been charged that Farben made an effort to exert further influence upon the Freiger Verein by allegedly trying to acquire shares of the Verein, I refer, therefore, to this permission and ask Your Honors to take notice of it and of the fact that the Ministry issued an order that the people residing in the Sudeten-German area should be offered an exchange of shares and that those people who had the desire to release possession of their shares should be given a chance to do so.

JUDGE MORRIS: Counsel, I notice that your Exhibit 49 is signed "v n Hannecken." Is that the General Hannecken who has testified in this case?

DR. HENZE: Judge Morris, General v n Hannecken was a leading personality in the Ministry of Economics for quite some time. I assume that it is he who signed this document and that it is the same person who appeared as a witness here.

JUDGE MORRIS: Thank you.

DR. HENZE: Document 49, Exhibit No. 50, is a public notice issued by the two firms acquiring these plants according to the provision of the Ministry.

Document No. 50, which I offer as Exhibit 50 — Exhibit 51; I beg your pardon — is an affidavit of the member of the Vorstand of the Chemische Fabrik v n Hayden A.G., by the name of Struberg. This man reports on the sales negotiations. This document has already been introduced as Kuehne Exhibit No. 118. I ask Your Honors to devote particular attention to the next two documents.

In the case of Document 51, Exhibit No. 52, we have a file note of an employee of Farben in Berlin, which is signed by the Defendant Ilgner. This communication reports about conversations which the author, Mr. Kersten, and Mr. Schmitz had with the Director Glamm of the German Solvay & Company. Mr. Kersten further discusses the conferences which were

conducted subsequently with M. Messon, of the firm of Solvay & Company in Brussels. The fact that the Solvay firm gave its permission can be seen from the next document, Document 52, which will become Exhibit No. 53.

It is a letter of the Vorstand member of the Dresdner Bank, by the name of Zinsser, who reports about two telephone conversations with Mr. Dvorcek, and who informs all parties concerned that all the functionaries and organizations of the Solvay Company gave their consent to the sales contract.

The next document, No. 53, Exhibit No. 54, is a letter of the Czech National Bank in which the latter also gives its approval to the transaction. May I point out that the Czech National Bank was an independent enterprise of the Czechoslovak State, and that it was free in making its decisions.

The next two documents, No. 54, Exhibit No. 55, and Document No. 55, Exhibit No. 56, are the two letters which were written by the partners to the contracts when the contract was concluded. These letters speak for themselves and are being offered because they contradict the tendency which the Prosecution has ascribed to Farben.

The next Document, No. 56, should be marked with Exhibit No. 57. This is an excerpt from a report of Farben's Economic Research Department in Berlin, dated 10 August 1938. The Index has the wrong notation about the date. I offer this document in order to corroborate what my client said before in direct-examination.

My next Document, No. 57, which will become Exhibit No. 58, is the affidavit of my client, which he made before his arrest, and which he gave to the Prosecution, and which affidavit deals with this transaction. I am offering this document particularly because the method and manner of calculating the purchase price can be seen from this particularly clearly.

The next three documents I offer in order to refute several statements of the Witness Dvorcek. This witness said in his direct-examination

that the firms acquiring these shares insured the factories immediately after the sale was concluded; they insured them to a considerably higher value than the purchase price.

In the first Document, No. 58, which will become Exhibit No. 59, the Chemische Fabrik v n Hayden A.G. wrote, in October 1939, to Farben and asked that certain insurance companies be considered when taking out a new insurance policy.

In the next Document, No. 59, Exhibit No. 60, there is an excerpt from the minutes of the Aufsichtsrat meeting of the Chemische Werke Aussig und Falkenberg G.m.b.H., when it was decided that the insurance be postponed for another year. From this document it can be seen that Mr. Dvoracek's memory was not correct.

The next document is Document No. 60, which will receive Exhibit No. 61. This is an excerpt from the minutes of the meeting of the four-partite Cartel, and it deals with the situation which was created by the change of circumstances in Czechoslovakia. I do not want to comment on this document any further since my client has already dealt with this conference during his direct-examination.

Since I have concluded the presentation of my documents I should like to continue the direct-examination of my client.

DIRECT EXAMINATION (Cont'd)

BY DR. HENZE:

Q. Mr. Kuglar, I now turn to Count Two of the Indictment. I ask you: Did you have anything to do with the events in Poland that were mentioned by the Prosecution under Count Two of the Indictment?

A. No, the Polish questions were not part of my work.

Q. May I put to you an exhibit of the Prosecution? That is Exhibit No. 2969. This was introduced during the examination of the Defendant Haefliger, and it deals with the first contacts of the Reichs Ministry of Economics about the Polish dyestuffs factories. It's a file note of Dr. Frantzel in Berlin, addressed to Dr. Kuglar. Please comment on this document.

A. In Farben — and that was true for all big firms — if somebody did not know to whom one should send a certain communication and did not know who was working on a certain problem, one sent the document to the Plant Secretary of the particular plant combine, and that secretary was the Directorate of Department Dyestuffs in that case. The supreme management of that department was in my hands, when in 1934 I took over the sales of dyestuffs to the Southwest. Dr. Frantzel knew that; and because of the confidential nature of this affair he sent that file note to me.

Q. That document has Exhibit No. 2003 for the record. Your answer does not quite clarify that case. The management of the Polish question evidently was in the hands of the Directorate of Department Dyestuffs in the further course of events. Mr. Eckert, who has been mentioned already, was a procurist of the Directorate Department Dyestuffs. You were the Director and Manager of that Department. In other words, Mr. Eckert was your subordinate, and to that extent you were also concerned with this affair.

A. That is apparently correct, but I must explain it. The Witness Schwab, in answer to a question of the Tribunal as to whom he would have turned in Frankfurt from Poland if he wanted an answer to some fundamental question, did not mention my name, and he quite properly did not mention it.

In order to explain the situation I have to go into details somewhat. First when the war broke out the International Dyestuffs Cartel became meaningless, and thus an essential part of the field of work of the Directorate Department Dyestuffs was eliminated. Restrictions in personnel were felt immediately after the war broke out, partly because people were transferred to other departments and partly because they were drafted into the army. The manager of the Current Business of the Directorate Department, Mr. Eckert, was to be retained at all costs. He was subject to the draft, and in order to retain him he had to be given new or additional fields of work. Secondly, we were not quite clear as to what would happen with the labor situation in Poland at that time. We were only clear about one point, namely, that Mr. Schwab, who had managed the Polish sales up to that time, would be absent from Frankfurt from now on, and it was also clear that somebody in Frankfurt had to be permanently present in Frankfurt to handle the Polish questions. Thirdly, we could not expect that I would be in Frankfurt on a permanent basis. In connection with my management of the sales business of the Southeast European countries I was frequently absent from Frankfurt, and sometimes for long periods of times; therefore, from the very beginning it was arranged that all questions arising from the Polish problem, contrary to the usual method of work distribution should be dealt with by Dr. Eckert, together with Dr. Kuipper, directly for and directly under Mr. von Schnitzler. This arrangement can be noted from the fact that it wasn't I, but that it was some other people, who entered the Verwaltungsrat of Winnica when that enterprise was taken over by the French Group with a share of 50%. May I say, at this point, that similar conditions applied to the two Alsatian firms — Mulhausen and Mulhausen-Dornau. The latter firm was not made the subject of the Indictment by the Prosecution, and in the case of these two Alsatian firms, Mr. Eckert worked under the supervision, so to speak, of Dr. Kuipper, and immediately and directly under Dr. von Schnitzler.

Q. Did you participate in the negotiations or in the conferences that took place with any agencies in the course of the lease and purchase agreements?

A. No, neither in the case of Poland nor in the case of Alsace-Lorraine.

Q. Did you sign or write any letters in that connection.

A. Not as far as I remember, for all parties concerned considered it important that this arrangement be observed the way I have described it just now.

Q. Then, I want to interpolate one question to clarify the functions of the Directorate Department Dyestuffs: Was the Directorate Department Dyestuffs the superior of the sales organization?

A. No.

Q. Was the Directorate Department Dyestuffs the superior of the Legal Department?

A. No.

Q. That includes the subject-matter "Poland."

My colleague, Dr. von Krafft, will be kind enough to continue with the examination.

DR. VON KRAFFT: Dr. von Krafft, assistant to Dr. Henze, for the Defendant Kugler.

DIRECT-EXAMINATION (CONT'D)

BY DR. KRAFFT:

Q. Mr. Kugler, when examining you at Francfort we want to take into account that according to an order of the Tribunal Dr. Ter Meer is going to be examined at Francfort subsequent to your examination. Therefore, I shall confine myself only to those questions that are not going to be gone into by Dr. Ter Meer.

I have a few preliminary questions: Did you work in the French business of Farben, or in what capacity did you participate in the French negotiations?

A. I participated in these negotiations in my capacity as Manager of Directorate Department Dyestuffs, with which, up to the war, the Central Agencies for International Dyestuffs Agreement had been connected.

Q. Were you, in the case of Francolor, also the executive organ?

A. Just as the work on the technical part of the agreement was done by the T&E office and just as the legal questions were handled by Dr. Kuepper, as the Manager of the Legal Department; then, the commercial part was worked on by the Directorate Department Dyestuffs, and to certain extent one can characterize my functions, or one can compare them to the activity of Dr. Struss in the T&E office, or with the activity of Dr. Kuepper in the Legal Department Dyestuffs.

Q. Did you have a decisive influence about the fact as to whether or not the Francolor negotiations would be concluded by Farben and about the contents of the agreements?

A. One cannot say that. The decision was not in my hands, but in the final analysis it was in the hands of the Vorstand members.

Q. Mr. Kugler, please tell us when you started to participate in the work and in the negotiations which brought about the Francolor Agreement.

A. As the Director of the Secretariat I participated in the preliminary work; then, I participated in the preliminary discussions that were conducted with the Waristice Commission in Wiesbaden. Whether I participated in all of these meetings I do not recall at the moment. These discussions in Wiesbaden served the purpose of taking up the initial contact with these agencies which were responsible for the reactivation of the business activity in France in connection with the Reich Ministry of Economics, and agencies that were decisive for conducting the business relations. I remember that the discussions for France in the dyestuffs business were carried out in August with the Waristice Commission and that later—approximately around the middle of August—Mr. Schnitzler reported in Wiesbaden about the impressions that he had gained during his first trip in France.

Q Mr. Kugler, what sort of trip was that and who participated in it?

A This first trip was undertaken by Mr. von Schnitzler together with Dr. Ter Haar. As far as I remember it was to be a preliminary informational trip about the situation in France as it presented itself after the termination of hostilities. On the basis of information of German agencies in Paris, at that time, interesting pieces of information was imparted to us to the effect that French textile industries would probably not start operating in the immediate future. That was interesting for us dye-stuffs salesmen because the textile industry in France, just as it was true for other countries, was the chief consumer of dye-stuffs. One can say that in countries like France the share of the textile industry in the consumption of dye-stuffs was approximately sixty or seventy percent.

Q Mr. Kugler, can you please tell me what was the immediate cause for this trip.

A That wasn't one single reason alone. You have to take into consideration the situation at the time. Before the war we had considerable business interests in France. There was a large agency in Paris, the SOPI. We knew by way of Switzerland, that during the war that a lawsuit for espionage activity had been brought against SOPI. Mr. von Schnitzler wanted to find out, on the spot, what the fate of the members of that firm was and these employees were our employees or at least they were employees of our firm before the war. There were stockpiles and storerooms of which one didn't know what had happened to them. And the same is true for accounts receivable and other property that we had in France before the war. Thus Mr. von Schnitzler, as the chief of the sales combine dye-stuffs, had a whole number of reasons why he should undertake such a trip. Above and beyond that, I thought

that the reason was that Mr. von Schnitzler wanted to inform himself, in his capacity as chief of the Tar Dyes Group about the entire situation.

Q Is it correct, Dr. Kugler, that next to the Armistice Delegation, the Reich Ministry of Economics was also a decisive agency?

A Yes, that is absolutely correct.

Q Did you negotiate with the Reich Ministry of Economics in the Francolor question?

A Not as far as I remember.

Q Who discussed these questions with the Reich Ministry of Economics?

A I remember that Mr. von Schnitzler talked to the Reich Ministry of Economics and occasionally people from the Berlin office may have talked to the Reich Ministry of Economics about the French affairs during the first time.

Q Before the beginning of the negotiations with the the French group -- that is before the Wiesbaden meeting on 21 and 22 November 1940, -- had you been in France?

A Yes. At the end of August or the beginning of September 1940.

Q Can it be that period of 29 August until 5 September 1940?

A Yes.

Q Is that the trip, Mr. Kugler, to which Prosecution Exhibit 1241 refers, NI Document 6893? Mr. President, this is the Prosecution document contained in Book 57 of the Prosecution Document Books on page 30.

A Yes, that is right.

Q I shall deal later with that exhibit, but now I should merely like to find out from you what brought about this trip at the end of August and the beginning of September 1940.

A On 20 August 1940 there was a meeting in Berlin of the Commercial Committee. I participated in this meeting as a guest. Mr. von Schnitzler reported during that meeting, among other things, about his first trip to France that I have already mentioned. Mr. Mann informed the people present of his intention that he also would undertake a trip to France at the end of August. Dr. Ter Harr and Dr. Krueger wanted to join his staff. These people were from Berlin NW-7. I had known Mr. Mann for many years. I was a particularly close friend of Mr. Mann's during the years 1921 and 1925 when I was under his charge in Farben. It was a kind gesture of Mr. Mann to suggest to Mr. von Schnitzler during that meeting that I should be permitted to take part in that trip. Mr. von Schnitzler agreed. I remember this very clearly. During a lunch this was at the Hotel Aylon. And thus I became a member of that group. I should merely add that since railroad traffic had not yet been restored regularly, the trip was undertaken in two automobiles belonging to the firm.

Q Did the people participating in this trip have an outlined program or a joint task that was prearranged?

A No. From the point of view of Farben's organization, the circle of people was a very colorful conglomeration. There were people from the Pharma Sparte; there were people from Berlin NW-7 with quite different types of work; and finally there was one dye-stuffs man in the group. The people in this group participating in the trip were to try to get a picture of the general situation. I personally was to visit those agencies among others with whom contact had been established already during the first trip of Mr. von Schnitzler and Dr. Ter Haar. Mr. von Schnitzler considered it particularly desirable to talk to these agencies once more, because during the first trip a confusion of opinions had arisen about the

future intentions of the military agencies with regard to the industrial activity in France. One could say that for every man there was a different opinion and attitude, and therefore I was to investigate and try to find out if anything had been clarified in the meantime.

Q During that trip apparently various agencies were visited in Paris. I should now like to know whether all participants in that trip went to see these various agencies in Paris together.

A No, that wasn't the case that we arrived there, so to speak, as a six member or seven member delegation. One visit and sometimes several visits would be carried out together. I believe the visit with Dr. Michel was carried out together but for the rest the circle in Paris dissolved very quickly and individual discussions were conducted. Mr. Mann went to one agency, Mr. Grobel went to another, I myself visited friends and acquaintances, and Mr. Krueger had other friends. In the evening we met perhaps for dinner or during noon hour for lunch.

Q As can be seen from Exhibit 1241, that I mentioned previously, a joint report was rendered. How did that come about?

A Dr. Ter Haar, who has some journalistic talents, thought that it might perhaps be expeditious to draw up a travel report. We didn't contradict that suggestion. Dr. Ter Haar went about making notes of what he heard during a joint conference or of what he understood during a joint conference or what he thought he had understood from certain stories that were told him on his individual visits.

Q We shall deal with that affair later. At this time I should like to find out this from you. Please comment, Dr. Kuglar, about the question of your other participation in the Francolor negotiations.

A. As the manager of the chief department dye-stuffs, I participated in the preliminary negotiations which brought about the Wiesbaden negotiations of 31 and 22 November. I then assisted in the numerous Paris negotiations that took place in 1941. That is in the case of all of them -- beginning with the meeting of 20 and 21 January 1941. I kept a record of all of these meetings.

Q. Dr. Kugler, did you yourself conduct negotiations at any time or did you only have the part of an expert?

A. Of course I spoke up now and again during the meetings and negotiations but when you say expert I believe you have properly characterized my activity.

Q. Say something briefly about your functions that you carried out after the Francolor enterprise was founded.

A. The consortial treaty between the original firms and the Farben provided that the Conseil D'Administration be given two committees as advisory organizations -- namely the Committee Technique and the Committee Commerciale. I became the chairman of the Committee Technique on the German side. There was also a French chairman. And in the Committee Technique Dr. Wenk was the chairman on the German side.

Q. Did that activity in the Committee Commerciale take much of your time?

A. One can't really say that. The Conseil D'Administration convened approximately three or four times a year beginning with 1942 and on the day preceding the meeting of the Conseil D'Administration there was a meeting of the Committee Technique and another one of the Committee Commerciale. By the way, there were not very many commercial questions around that time because production was of necessity limited and sales were more or less channeled in certain directions and as the records of the Committee Commerciale show, quite a considerable part of the time wastaken up in trying to find accounts receivable and stores and stockpiles of the parent firms of France, of unfreezing these accounts,

and seeing to it that these accounts, with the special permission of the Reich Ministry of Economics, should be paid to the parent firms by way of a special clearing arrangement. That was an assistance we granted to the French parent firms. The Committee Commerciale would have been able to conduct its proper business only after the return of normal conditions.

Q. Thank you. That is enough. I now turn to something else. French firms, next to Kuhlmann, St. Clair, St. Denis, and the so-called later parent firms of Francolor, — a number of other French firms belonged to the German-French Dyestuff Cartel, the tripartite or quadripartite cartel. What firms were concerned in that case? Can you tell me that?

A. The firms Mulhouse-Dornach, the firm Steiner, and Durand and Huguenin in Huguenin, were concerned. The latter firm was dissolved and made a part of Kuhlmann before the war broke out. Furthermore, there were two more firms which participated in the cartel as so-called appendix firms. They were the firms Magout et Camelle and Croix Vasquehale.

Q. The firms you have just mentioned were not taken into the Francolor enterprise. What happened to them?

A. The firms of Steiner, Magout et Camelle and Croix Vasquehale were to be closed down. The three remaining firms I mentioned were located in Alsace. The indictment deals with the firm of Mulhouse. Mulhouse-Dornach was transformed into a joint Swiss-German firm which is not included in the indictment. The plant in Huguenin, as far as I know, had already been closed down when the war broke out, and we learned later that the plant itself had been sold to a firm by the chief of the German civilian administration — to a firm, that is, which did not produce chemicals.

Q. Mr. Kugler, did you personally conduct negotiations about the individual measures in that regard?

A. One must not imagine that there was a certain negotiation where it was stated quite openly "We are now going to discuss the paralyzation or the shutting-down of these plants," but the shutting-down was treated in the course of the general negotiations.

Q. During the cross-examination of the witness Overhoff and also at another passage during their presentation of evidence, the Prosecution pointed to such shutting-down or paralyzation of plants and to the restrictions of production, and it considers these measures discrimination or prejudicial to the French interests. I particularly refer to the trial brief concerning Count II on page 43 of the German and page 40 of the English. Can you say anything about that?

A. I have already discussed the Alsatian firms. In regard to the three French firms, namely, Steiner, Magout et Caselle and Croix Vasquahale, one cannot speak of any prejudice to French interests. One can only speak about such prejudice if one doesn't know the actual conditions. The three firms didn't produce at all. They were what technical people call ready-made enterprises. They are firms that repack dye-stuffs that have not been produced in their own premises; that dilute dyestuffs; or that prepare certain drugs for the preservation of food stuffs and again sell them in small quantities. The delivery of dye-stuffs as such was done by the French parent firms, and the continued operation of their enterprises was not considered expedient by the French firms. It was considered uneconomical. The decision about Magout et Caselle and Croix Vasquahale was very simple because both firms belonged to Establisement Kuhlmann and were owned by them one hundred percent. The shutting down of these plants was a purely internal arrangement. In the case of the firm of Steiner I do not know exactly whether those parent firms, or one of the parent firms, had participated in the capital. At any rate Mr. Frossard had taken that upon himself, at the time, to discuss with Mr. Steiner a possible conclusion of his mediating activity. Whether an arrangement or a settlement was made I do not know any more.

From our point of view the matter was of such insignificant importance that one didn't have to pursue it particularly or that one quickly forgot the result or what happened at the time. Particularly striking in the character of the Steiner problem was the fact that Mr. Steiner concerned himself mainly, as his chief business, with the production of marmalade and fruit juices. He was not a representative of heavy chemical industry.

Q. In order to clarify some points that have not yet been exhausted I want to turn to something else now. In Book 57 of the Prosecution, page 29 of the German text, the Prosecution submitted Document 4849, Exhibit 1240, on page 30 of the English. In the index of Book 57 that document is considered and designated as proof for the fact that the military commander for France confiscated the enterprise Villers St. Paul of the Etablissement Kuhlmann on 7 January 1940. Apparently the Prosecution wants to establish a connection by this document with the later Francolor negotiations. Can you comment on that?

A. The measure was not carried out upon the instigation of Farben. It has no connection with the latter or with the subsequent Francolor negotiations.

Q. Was this a confiscation at all?

A. In my opinion not. In the German text of the document submitted the decree or the order is called "Safeguarding", or "Security". In my opinion this is a regulation which corresponds to the "Off Limits" signs that are, for instance, attached by American Army authorities to certain German public buildings, factories and so on. The purpose of these signs, of course, is to prohibit unauthorized personnel from entering these buildings and to prevent anybody from taking away material from these premises and to create order. The text of this document confirms such an assumption and the arrangement in which

the text has been listed in this printed form — apparently a printed form which the agencies of the German Military Police received at the time, and which they attached wherever they thought it would be necessary.

Q. One little question in that connection, Mr. Kugler, were you, perhaps, in Villiers St. Paul in 1940.

A. I didn't enter Villiers St. Paul or any other plant which was incorporated in the Villiers during the war.

Q. You heard only now about this so-called safeguarding action -- that is to say, during the course of this trial?

A. Yes, that is right; and I would add that in the course of subsequent negotiations with the French group, as far as I remember, the entire event was not even mentioned by the French gentlemen. The Frenchmen would certainly have mentioned it if they had considered such signs as sequestration or confiscation but I assume they considered that only a very desirable safeguarding or security measure. I can remember from the early times of American occupation that everybody was trying to get rid of these "off limit" signs to attach to one's house.

Q. Then, according to your description, one cannot speak of any pressure that was to be exerted on Kuhlmann?

A. Certainly not.

Q. In the documents presented by the Prosecution this pressure is mentioned, at least, there are certain formulations contained therein which permit one to conclude that the intention existed to exert such a pressure. In that connection I want to refer particularly to Document NI-6639, Exhibit 1241, Book LVII, on page 31, of the English, and to the exhibit of the Prosecution offered during the cross examination of Dr. Kiermaier on the 17th of February 1948 which is Document NI-14224. Can you comment on that, please?

A. Such an impression may be created if one takes out individual passages from its contents and if one does not take into account of if one does not know certain conditions that prevailed during the time when the one or the other document was drafted and which were presumed as known to the reader when the documents were drafted.

Q. Dr. Kugler, please explain what you have said a little more closely.

A. Quite generally, I would say about this situation that you are asking me about that the time when the negotiations were to be started with the French group was determined by the German government. From Exhibit 1241 mentioned and from various other documents of the Prosecution, it can be seen how much the entire affair was in a state of flux in the same summer and early autumn of 1940 and that it was the government that recommended or ordered outright a possible postponement of these negotiations.

Q. Can you indicate what reasons caused the German official agencies to adopt such an attitude?

A. As far as I could detect from direct conversations to these agencies or from any other sources, the reasons were that, first, all questions must be mentioned that had to do with the Regulation of traffic between occupied France and non-occupied France. In that connection I mention, starting from the smallest things: the transportation of persons and mail, the transportation of commodities between the two zones, the questions as to whether customs and import regulations were to remain in force or not. Then there were difficulties which arose from the fact that the Southeastern tip of France was occupied by Italy and that a certain coordination of the economic and general policy had to be undertaken in the Italian part, in the Italian occupied France and in German occupied France. In short, there were many questions which influenced a normalization of the economy and what we know today about a national boundaries was very much felt at the time in the case of the demarkation line -- that is, the border between occupied and unoccupied France.

Further ambiguity resulted in the discussions about the fate of the Department du Nord and the Department Pas de Calais. It was considered at the time that these two departments be made a part of Belgium politically or at least economically and to have Belgium these two departments. Both of these departments were important for the procurement of raw materials and particularly for the delivery of coal to the rest of France and the decision about the political or economic future of these two departments was considered to have an essential influence upon the rest of trade and industry.

I have already pointed out the first trip undertaken by Mr. von Schnitzler and I have also pointed to a certain amount of confusion that resulted in the new Germany administrative agencies about the future aims and this was not clarified very quickly. One discussed very long whether new products were going to be subject to approval or not, whether only the direct war essential industry was to be reactivated or whether also other industries serving civilian requirements should be reactivated.

I have already mentioned that the textile industry allegedly was to be shut down and not very much later the course was changed abruptly. One interested one's self in having the textile industry operating and also to produce the raw material for producing the textiles and in that connection new synthetic fiber projects were planned and partly even carried into practice.

Q. Mr. Kugler, that certainly explains somewhat the delay of the beginning of the contact between two parties but in some documents it is said that in the meantime until the negotiations are started a certain influence should be taken up in the allocation of raw materials to the French dyestuffs industry.

A. My answer to your present question will take quite some time and I should like to continue and not be interrupted. Perhaps you can suggest to the Tribunal that we have our recess at this time.

THE PRESIDENT: We will take our recess now.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Just a moment, counsel. The Secretary General has called the Tribunal's attention to the fact that there is some uncertainty in the record with respect to Hoerlein Document 114 offered by Dr. Helte as his exhibit 107 for Hoerlein. In order to clear up the situation the Tribunal now formally admits Hoerlein Document 114 as Hoerlein Exhibit 107. The Tribunal would appreciate it if some member of the Defense staff will call Dr. Helte's attention to that matter.

You may proceed.

BY DR. VON KRAFFT:

Q.- Dr. Kugler, I repeat your statements which you made before the recess in answer to my last question. You explained the delay of the commencement of the contacts between the two interested parties. In a number of places of the Prosecution document mention is made of the fact that in the meantime, up to the time of the commencement of the negotiations, there was a demand that influence should be exercised on the raw material distribution to French dyestuff factories. Can you make some statement about that?

A.- Yes, that is correct. Here again you must understand the situation as a whole, and you must take into consideration the background. You must not judge the situation from an excerpt from reports.

Let me explain that in detail. In the summer of 1940, reports were already available that French industry — and I am referring to the chemical industry — endeavored to put the factories back into operation as quickly as possible and to as large an extent as possible. The Prosecution Exhibit 1241 contains a reference to this end. It states that one of the leading directors of Kuhlmann, Director Raindre, had said that Kuhlmann would carry on in a big way.

Prosecution Document NI-792, Exhibit 1242, in Book 57, English page 49 also refers to that matter, which is my letter to Dr. Teer Haar of 12 Sept-

ember, 1944. Exhibit 1241 indicates the position and the jurisdiction of the field commanders. On the occasion of the visit of the military commander of France in Paris at the end of August, it was pointed out that the local field commanders had rather large authority to put the factories back into operation within their local areas and that they would make any necessary decisions as far as they applied locally.

In this connection I might further repeat the reference to the information which they received on the occasion of this first trip according to which he could not assume that the main consumer of dyestuffs, the textiles industry, would start operation. Accordingly, one had to assume at first that there would operation. Accordingly, one had to assume at first that there would momentarily be no new demand for dyestuffs in France. I shall cite a further matter.

Information reached us from various export markets at the time that the French firms would appear in export in such a manner which must be considered as a serious prejudice to the German foreign currency. This mainly concerned goods which were either exported from unoccupied France, or goods which we exported from the stocks of the French firms. Exhibit 1886 of the Prosecution, HI-14224, refers to that matter. I quote: "Indication of disturbances of the German foreign exchange proper / are prevalent." Confronting that with what I just said was the situation in Germany. The dyestuffs production in Germany was considered non-essential, and immediately after the outbreak of the war was severely regimented and curtailed. The raw materials distribution, benzene, acids, on the one hand, and coal, on the other, for purposes of dyestuffs production, were sharply curtailed through the economic group and the Reich Ministry of Economics. It was adapted to throttled needs of the domestic market and to the still more limited export needs.

In other production fields of Farben, matters were somewhat similar. In view of that situation one may well understand that it was pointed out

at the time that in contrast to this strict curtailment in Germany and to production control in Germany, France should not work without any planning.

F.- Mr. Kugler, as far as you knew at the time, was there actually such a danger that the general German economic interests would be harmed, and do you know in what way the official agency tried to regulate this state of affairs?

A.- There was no practical interference, and as far as the danger is concerned of which you speak, Dr. Ter Meer in the course of his examination with respect to Count II will probably explain that we simply did not see the matter quite correctly.

If, in the late summer and fall of 1940, one could have clearly seen how difficult the raw material situation in France was, how difficult it would be somehow to regulate the transportation difficulties of which coal supply was principally contingent, one would neither have made any statements about the production plans of French firms on the one hand nor would one have taken seriously the warnings by the military commanders with respect to the latter; and I am particularly referring to the question of the jurisdiction of the field commanders and questions pertaining to permissions to be granted.

In retrospect, the situation was that we were unnecessarily troubling our brains. The anxiety that the French factories concerned during a transition period would be able to work under more favorable non-controlled conditions than we did in Germany, and that in connection with that the General German economic interests would suffer, and, for instance, the rationing of scarce raw material and the reduction of foreign exchange were completely superfluous, and it later turned out.

All these matters settled themselves. To what extent that was true turned out some time later when Farben, after January 1941, after the first

private negotiations with the French group, tried to assist the French dyestuffs factories and tried to improve their situation as far as possible with respect to raw material supply, as compared with the rest of the French industry.

Dr. Ambros made certain indications on this subject while he was examined, and Dr. Ter Meer probably will also make some remarks with respect to the coal supply. He will indicate how difficult and sometimes how unsuccessful such endeavors were, because everything turned out to be the opposite.

Q. Mr. Kugler, your statements so far seem to clarify the intentions of Farben, and also throw some light on the economic conditions which prevailed at the time. But I cannot get round the fact that the expression "pressure" was used in those documents, indeed.

A. I don't know where the word "pressure" was used. But, from what I have before me, I think, you must distinguish between Exhibit 1241 and the Exhibit 1886. The latter document refers to a conference in Paris at the end of November, 1940. That is the document which was put to Dr. Ter Meer during cross-examination. The first document is the file note about the journey at the end of August or the beginning of September. I think that the file note referring to the conference of November, 1940, that is Exhibit 1886, clarifies considerably this apparent contradiction, which you refer to in your question. I may remind you that it was our intention to offer this exhibit 1886 as a Defense exhibit. That couldn't be done because it was used during cross-examination.

Q. Mr. Kugler, would you please enlarge upon this subject?

A. Let me state the following. Today I am not in a position to state whether the draft which at the time was sent to me by Dr. Ter Meer, who was the author of the file note on the journey in summer, 1940, is the same to which Exhibit 1242 refers. I don't know whether or not on the basis of suggestions by third parties or on the basis of the author's own ideas against the draft submitted to me, any further additions or changes were made. Possibly such additions and changes were made pertaining to such matters which were discussed here concerning exercising some influence. For that reason I should like to ask you to

understand my statement up to now on that subject to mean that I assume that Exhibit 1241 is the correct text. If that is so, its contents must be understood in the sense I explained. I am not the author of the travel report. As I said, it was by Dr. Ter Haar. In the introduction to the examination pertaining to France, I already stated under what circumstances this travel report was drawn up. Had I written it myself, perhaps I would have stated it clearly and unambiguously when dealing with the dyestuffs field what actually was, and what was not, wanted.

The word "pressure" probably would not have been used at all. Instead, I would have explained the anxiety, that without any settlement of the raw materials distribution there would have been great confusion in France. This quite independently of the question whether negotiations are, or are not, carried on with the French. In the case of drafts written by third parties, one does not like to make corrections, particularly if the author is known to be somewhat sensitive, as it is true in the case before us.

When writing my letter to the author, I confined myself to suggestions in the supplement what seemed, to me, to be important with respect to the production plans of the French factories. As Mr. Mann stated during his examination, this is how this travel report constitutes a mixture of materially correct statements and some confused and unclear statements.

Q. Dr. Kugler, that will do. Now, tell me: Did the author, whom you designated as Mr. Ter Haar, defend this travel report, according to your knowledge?

A. I can't say that now. At any rate, the travel as such was the subject of a discussion during a meeting of the Commercial Committee on the 25th of September, 1940.

I also refer to Prosecution Exhibit 369, NI 6161. These are the minutes of that conference. I refer to paragraph 3 on page 2 of the German text. Certainly the actual result of this journey was discussed and approved during that commercial committee meeting.

Q. I should like to know from you, Dr. Kugler, in what way the file note of November, 1940, Exhibit 1886, clarifies things?

A. I am the author of that file note and I also signed it. Pages 2 and 4 of the German text speak of a tactical and material support in two places. The file note also contains the word "pressure", but not in the sense that it was intended to exercise pressure. To clarify that, let me say something about the background of this trip. At the beginning, or at the middle of November, 1940, after Forben had urged the authorities to start the conferences a conflict arose between the Ministry of Economics and the Armistice Delegation and the Military Commander of France. There was a dispute between these agencies whether the first conference was to take place in Paris under the sponsorship of the Military Commander, or in Wiesbaden under the sponsorship of the Armistice Delegation. The decision was made in favor of Wiesbaden. After the Wiesbaden conference, Dr. Ter Hear and I were commissioned to go to Paris. We were to approach the military commander in France; that is, in particular, Dr. Kolb and Dr. Michel, and report for one thing about the result of the Wiesbaden Conference, and further we were to explain to these gentlemen that Forben neither would nor could exercise any influence with respect to the choice of the location. Any dissatisfaction on the part of the Parisian gentlemen was to be avoided, or if any such dissatisfaction already existed it was to be removed. The file note in its first paragraph refers to this matter, on page 2 of the German text. I quote: "Beyond that, in the course of events, Paris has lost face to a considerable degree. Dr. Kolb, head of the chemical department Paris, in the absence of Dr. Michel, through Lieutenant-Colonel Neef had heard from Monsieur Blanchard the

French Government representative that the date was fixed on the 21st of December, and then subsequently telephoned Berlin in order to at least save his face before the Frenchmen. During the discussion both gentlemen, Dr. Michel and Dr. Kolb, recognized that Farben throughout the entire affair bound itself in a somewhat delicate situation, and that it had been difficult for Farben to consider the case any differently than under the point of view to constantly remain the object of any official decision". In order to substantiate what I have said in the beginning, that the file note of November proves that there was no actual pressure intended on the other partner, by Farben, as it was alleged by the Prosecution, I should like to quote the following from the file note. I shall quote from the first paragraph "The question of the location of the first German-French dye-stuff conference was touched upon again by both of the gentlemen." "Both gentlemen" refers to Michel and Kolb, "and this matter also seems to concern the Paris agencies as before. Dr. Michel informs that Dr. Burandt, "another co-worker of Michel," had gone to Berlin during these days in order to obtain clarification from the Reich Ministry of Economics whether Paris or Wiesbaden was to be given priority. Paris presents the point of view that the start of such negotiations should in principle take place at Paris; unless the subject of the discussion was intended from the start to have political significance. According to the Parisian view, Wiesbaden should only appear at a stage when the negotiations remained without positive success and when political pressure had to be exercised, which Paris, according to Michel's own statement, can only exercise to a very limited extent."

From the second paragraph on page 2 of the German text, one can read the following, and I shall again quote, quite briefly:

"Mr. Michel expects, however, that further conferences will take place in Paris."

The Paris agencies tried to get the conference to go to Paris where

there was no, or less, possibility of any pressure, according to their own statements. This file note doesn't try to be short, it is rather lengthy, indeed. Had we wanted to exercise any pressure, then in view of the extensive size of this file note some indication would certainly have been made that it was actually and particularly that one could not continue the conference in Wiesbaden.

Q. Mr. Kugler, I don't think we need to discuss this matter any further. Let me quite briefly touch upon the proportion of Francolor problem within the frame of French industry. The Prosecution, under Paragraph 103 of the indictment states that Kuhlmann, St. Clair, and St. Denis, represent the three most important chemical industries of France. One intermediate question, Dr. Kugler, is St. Clair considered on its own one of the larger or the smaller plants of France?

A. It is the smallest of the three. The proportion approximately is sixty percent Kuhlmann plants, like St. Paul, Villiers, and Oissel; St. Denis, twenty percent; and St. Clair, ten percent — twenty-five per cent, St. Denis; and fifteen percent St. Clair — — —

Q. That will do. Can you make some statements about the order of magnitude, and whether these three factories actually represent the most important chemical plants in France?

A. This question is in connection with some points made in the indictment under 113, according to which Farben acquired control over the chemical industry in France. Dr. Ter Meer, during his examination, will to a certain extent describe the technical aspects of the chemical industry in France, and I undertook to give a few figures with respect to their size. Well, that really anticipates Dr. Ter Meer's examination, but I think I may get it in here.

This will also serve to clarify some points made under paragraphs 104 and 105, which deal with also the order of magnitude. If one considered the value of a country's industry or if one tries to evaluate the branch of one particular industry, then one is confronted to an increasing extent with the same difficulties which exist when one tries to evaluate one individual enterprise.

The difficulties are somewhat larger. One must at first try to find certain standards of comparison. One must try to limit the concepts to a certain degree. One can consider chemical industry in the narrow sense, and one can consider it in a broad sense. In other words, borderline fields as for instance, electro metallurgical fields, can be included or can be excluded, but we are really not concerned with such details here.

Perhaps we can only see from the large figures whether the assumptions of the Prosecution are correct or not, and a standard for such a general survey can be gleaned from the turnover. The pre-war turnover of the French Chemical Industry, according to official statistics, estimates by technical organizations, etc., in agreement with most people concerned, amounted to 1.7 billion marks annually. The capital of Francolor, according to the pre-war turnover, was estimated as amounting to 800 million French Francs, that is 40 million marks. I add that when estimating these 40 million marks, 800 million French francs, a correction of the exchange rate has to be reserved.

The conclusion which I want to draw from these figures still holds true because the rate of the French Franc differed before the war and during the war; the manner in which the rate was exchanged is stated by Schnitzler Document 45.

Q One intermediate question; when discussing this Schnitzler document you are referring to a document about to be introduced?

A That's right.

Q It is a Defense document?

A Yes, it a Defense document which Dr. Siemers introduced.

These 40,000,000 marks, compared to the 1.7 billion marks entire turnover of French Chemical industries, result in a percentage of $2\frac{1}{2}$ per cent. Farben, however, only took over approximately 50 per cent of Francolor. That is to say, of the $2\frac{1}{2}$ per cent, mean only one and one-quarter per cent and are now confronted with the 100 per cent of the Indictment.

Q Mr. Eugler, you have discussed various standards of comparison before. When applying another standard, would you arrive at a similar correction of the statements made by the Prosecution?

A Yes. The Agence Economique et Commerciale, that is the most significant French Economic Journal, in 1942, has surveyed the actual interest value of the representative French Chemical Enterprises. The evaluation starts out from stock exchange quotations, and it includes the firms Pechiner, Visines, Rhone-Poulenc, Air Liquide, St. Gobain and Kuhlmann. The total of the internal values of these companies amounts therefore to approximately 25 billion French Francs. In this sum, Kuhlmann, the most important of the representative French parent firms of Francolor, has a share of 2 billion Francs. This figure corrects the statements made under Paragraph 103 of the Indictment.

I shall now turn to another consideration. Within the group of the French parent companies of Francolor, Kuhlmann had a share in a proportion of 48.8 Kuhlmann to 21.0 St. Denis to 9.8 St. Clair. That is, talking in percentages, Kuhlmann had approximately 60 per cent. 60 per cent of 800 million--that is the capital of Francolor--corresponds to approximately 480 million French Francs. In other words, the internal value of Kuhlmann of two billion French Francs, as we arrive at it according to our calculations, the dyestuffs factories absorbed by Francolor, amounted to approximately one fourth, and did not represent, as the Prosecution says under Paragraph 110 of the Indictment, the main property of Kuhlmann, - the main assets of Kuhlmann. Beyond that, Farben acquired only approximately 50 per cent, that is, the one-quarter

changes into one-eighth.

One more point added to this play of figures. Under paragraph 113 of the Indictment, the Prosecution speaks of the "acquisition of the chemical industries of France." In addition to the large firms mentioned in the article of "Agence Economique," hundreds of medium and smaller factories existed but then there were still some large enterprises, as for instance, the larger enterprises of the nitrogen, rubber and synthetics industries, which are not mentioned in the article, and these too belonged to the Chemical Industry. On the other hand, one might say that Pechiner includes that and that they include certain branches of metal production, and in the case of St. Gobain, the glass production was included in the calculations, but even if these items are excluded, Francolor does not amount to $2\frac{1}{2}$ to 3 per cent of the entire Chemical Industry of France, and Farben's share amounts to not more than $1\frac{1}{2}$ to 1.5 per cent.

Q I think that will suffice. I have two more questions. Did you ever view the entire Francolor transaction with the thought in mind that it could be considered to be plunder and spoliation?

A No, my personal judgment of the Francolor transaction was set down in an affidavit which I handed to Mr. Rudolph of the Prosecution in March, 1947, in Frankfurt. The conclusions contained in that affidavit refer particularly to the commercial part of these transactions, and to the judgment of the administrative parts, also to the autenticity of the percentages of the participation. I think that Dr. Ter Meer, in the course of his examination, will go into these matters again and principally will mention the technical aspects of the Francolor transactions which were not mentioned in my affidavit.

I think that I can confine myself to answering your question with, "No."

My last question: The Prosecution considers, with respect to this matter of Francolor, that the aim was aggressive war which Farben helped to prepare. What can you say about that?

A. I cannot deny--and I am still not denying--that the new order of the relationship between the German and French dyestuffs factories, came about as a result of the war. Farben did not want this war, neither from an aggressive nor a defensive point of view. I voiced my opinion on that yesterday. In answer to your question let me point out one thing: In the Francolor contract Farben guaranteed to Francolor the pre-war business to the extent of 7,000 tons of dyestuffs for a duration of 99 years. This guarantee was increased by Farben undertaking the obligation it would take French products from France into Germany if for some reason it should not be possible for Francolor to reach these 7,000 tons in one particular year. During the war Farben concluded a further contract in the field of dyestuffs which I might mention in that connection. This was a contract with the Prager Verein, of March 1941. It concerns the settlement of Farben's connection with the new dye-stuffs factory of prager Verein in Bohemia. Here, again, Farben guaranteed-- I think the contract is valid for 9 years -- the pre-war volume of production, and it even gave a bonus to be evaluated with about 25%. In summary I might state in reply to your question referring to the examples I have stated pertaining - guarantees to Francolor and Prager Verein, - in my opinion no one would act in that way who allegedly wanted to pay the terrible price of an aggressive war for the expansion of his power position. In the final analysis an economic power position is sale and turnover.

Q. Your Honors, this concludes the examination of Dr. Kugler with respect to Francolor and his examination as such.

I have no further questions to put to him.

THE PRESIDENT: (To Dr. Heinze) Do you have any further questions, Doctor? Do other defense counsel have any questions of this witness?

DR. KROEN: Dr. Kroen for the Defendant Kuehne.

BY DR. KROEN:

Q Dr. Kugler, this morning you were speaking of the carbide production in the Sudeten-German plant Falkenau. In order to clarify that matter I want to ask you this: Did the carbide production at Falkenau serve to increase the German war potential and can you tell me where the carbide, which was produced there, was sent?

A I wasn't quite clear this morning, perhaps, in connection with the carbide production. I didn't mention that my statement made in 1945 was just as wrong with respect to carbide as it was with respect to carbon bisulphite. Carbide was used, to a small extent, for welding and, to a large extent, for the production of calcium-nitrogen. The expansion of the plant which was planned but never carried out would have served the same purposes. If the concepts of war potential and war production are considered very broadly, one could also include carbide, as well as carbon bisulphite. It's the same with a bicycle. If you put a man on it who in the morning delivers bread, then I'm sure that that bicycle must be considered a civilian article; if, however, you put an Infantry man on that bicycle, then one might say that is war production. That applies in the same way to a large number of chemical products. It is decisive only as that in those factories who produced no explosives, no gas, even if Dr. Bosch in the affidavit that he drew up says that gas was produced; but no gas was produced.

Q Well, I wanted to put that question to you.

Thank you, Your Honors; I have no further questions.

THE PRESIDENT: Anything further from the defense counsel?

Then, the Prosecution may cross-examine the witness.

CROSS-EXAMINATION

BY MR. NEWMAN:

Q Speaking of Francolor, first, was it your idea at the time, and did you express it, that the arrangement to be made with the French in the dyestuffs fields during the occupation would become the pattern for other fields of French industry?

A Mr. Newman, at the end of April or at the beginning of May when I was interrogated I already discussed with you whether it had been my idea too, obtain this participation. Is that what you are referring to?

Q Just a moment. My question is this: Was it your idea that Farben's plan in the dyestuffs field should become the pattern for other fields of French industry?

A It's possible, Mr. Newman, but I don't know whether I was so convinced of the fairness and soundness of the Francolor contract that at some time in those five years I told at some place or someone else that this might well serve as a model. I am not sure now, but I believe that it is not out of the question. I shall even go one step further. I might say that it would still be a model for Farben -anyway for what is left of it- so beautiful was this Francolor agreement.

Q Well, the Prosecution would like to introduce NI-15228, which becomes our Exhibit 2142. This is an excerpt from a letter signed "von Schnitzler" and "Augler," to Dr. Ramlar of November 8, 1940; and I particularly refer to the last part of this letter; but I have no further questions in this connection.

THE PRESIDENT: Just a moment. Just a moment, please. First, counsel, is that Document 15228?

MR. NEWMAN: That's right.

THE PRESIDENT: And it becomes Exhibit--

MR. NEWMAN: 2142.

THE PRESIDENT: Now, is this in connection with the previous question?

MR. NEWMAN: That's right.

THE PRESIDENT: Well, just a moment, please.

WITNESS KUGLER: May I have the document?

THE PRESIDENT: Just a moment, please.

WITNESS KUGLER: May I have the document?

MR. NEWMAN: You may have it as I have no further question, please.

THE PRESIDENT: Just one moment, please. Just a moment, please. The Tribunal is holding up things; just keep the documents one second.

Now, counsel, as we understand the testimony and as we understand the document, your Exhibit 2142 simply corroborates what the witness has testified to. If it is admitted in evidence, it becomes a subject of a collateral inquiry; and upon what theory do you conclude that you are entitled to corroborate a witness who was admitted substantially what the document says?

MR. NEWMAN: May I suggest, Mr. President, that I answer this question after I put my next question because this document is important in another connection.

THE PRESIDENT: Very well. Ask the next question.

BY MR. NEWMAN:

Q. Now, you quoted, Dr. Rugler, from Exhibit 1886. This is your report on the conferences you held at Paris at the end of November 1940. You quoted that according to Dr. Michel the pressure would be stronger on the French if negotiations would take place at Wiesbaden rather than in Paris. My question is, is it not true that you personally welcomed the fact that Wiesbaden was picked for your first meeting with the French for this very reason -- that the pressure on the French would be stronger on this count.

DR. VON KRAFFT: Objection, Mr. President. I think that this question in that form is not proper.

THE PRESIDENT: That objection is overruled. You may answer the question.

A. It is possible that it was written down somewhere. But not in connection with that file note.

BY MR. NEWMAN:

Q. No, my question did not refer--I didn't say that it was written in connection with this file note 1886, but my question is whether it is true that you welcomed Wiesbaden as the place of your first meeting with the French because of the fact that at Wiesbaden the German Armistice Delegation took part in the negotiations and so the entire meeting had an official character.

A. I can't say that today. Perhaps you must submit a document to me in order to refresh my memory.

MR. NEWMAN: Now, Mr. President, in this connection I would like to introduce the exhibit I already numbered. Was your so-called Claim to Leadership in France limited to the dye-stuffs field or did it embrace the chemical field as a whole.

A. It was confined to the dye-stuffs field. If other fields were in the Francolor as dye-stuffs and remained there it was only because Farben, as well as the parent companies, realized that already available installations in the factories, say for synthetic products, or others, should not be dismantled and placed elsewhere. That is why, in the Francolor the field of Produits Divers was provided for. The Frenchmen, as it was shown in the contract, did not complain about it at all. They did not say that Farben claimed leadership for itself and tried to take control of other things too. You can see that from the fact that the Francolor agreement has a passage with respect to development in the future which had nothing to do with the other subjects.

MR. SPRECHER: Mr. President, we really had intended that we could make this cross-examination very short. The statements which the witness has made lend themselves to a very short cross-examination. Now, the simple question which was just addressed to the witness was merely whether or not the Claim to Leadership was to extend to the dye-stuffs field or if it was to go to the entire chemical field. That can certainly be answered very simply and I believe it was by his first words. The explanation thereafter was entirely surplusage from our point of view and our control over the cross-examination is limited unless there is some attempt to be responsive on the part of the witness.

THE PRESIDENT: The Tribunal will instruct the witness that when he can do so he should answer the question directly and simply with a yes or no. If, however, he can not answer the question so directly we ask him nevertheless to make his answer as brief as he can in order to comply with the question that is asked.

BY MR. NEWMAN:

Q. Now, I shall introduce in this connection WI 15224 which may go in as our Exhibit 2143. This is an excerpt from von Schnitzler's handwritten letter to defendant Kugler of 13 May 1941 and I refer to the first paragraph of this letter. Dr. Kugler, you testified this afternoon that it was the German government rather than Farben itself which

did not wish negotiations with the French industrialists to be taken up any earlier and that it was the government which recommended or even ordered the delay in starting negotiations with the French. Now, in this connection I would like to show you NI 795 which may go in as our Exhibit 2144. This is a letter by von Schnitzler to Dr. Hess, Chief of the Economic Group of Chemical Industries. If you will please turn to the second page and read the following phrase: "The French group, at present, seems to be under the impression that our government has not yet authorized us to confer with the French industrialists. Should you therefore hear of any such remark made by representatives of the French industry such as Mr. Duchemin, we would be grateful to you if you just listened to Mr. Duchemin rather than contradict him." And you may read the rest of this letter and then answer whether this refreshes your recollection as to who took the initiative in delaying negotiations.

A. May I include something now. I am confused. A letter was mentioned, a handwritten letter of Mr. von Schnitzler to me. Is that in connection with this matter? I never received it.

Q. I submitted two exhibits which you may take up with your defense counsel. I had no questions to my previous two exhibits. Now my present question refers to the exhibit before you which is Von Schnitzler's letter to Dr. Hesse.

THE PRESIDENT: Now, counsel, the witness has said something to the effect that the letter is not to him. Upon what theory do you assume that his recollection would be refreshed by a letter written by Dr. von Schnitzler to someone named Hess? I think you had better inquire first whether he knows anything about the letter.

BY MR. NEWMAN:

Q. Will you tell us whether you were informed about this letter and the events upon which the letter is based?

A. I can not remember this letter of Mr. von Schnitzler to Mr. Hess. From a material point of view, after glancing through this letter, I

might state that the part which you quoted, in my opinion, does not contradict in any way what has been testified to before. It was not stated that the agreement between Mr. von Schnitzler and Mr. von Hemmen came about because of tactical reasons or because Mr. Schnitzler was impressed by some statements of Mr. von Hemmen that there were urgent reasons to delay the negotiations.

Q. You answered my question. Before I ask my next question I shall show you Dr. Kramer's file note of 28 February 1941 which is part of von Schnitzler's Document Book 3, his Document Number 48, page 20 of the German and page 17 of the English text. This document book has not yet been introduced and we shall mark a German mimeographed copy of this document for identification only as NI 15242, Prosecution's Exhibit 2145. If you will please turn to the second page, first paragraph of the mimeographed copy before you, where Dr. Kramer describes that Frossard was deeply impressed and depressed by the complete prohibition of exports from the occupied zone in France to the unoccupied zone. Now my question is, was not Farben itself instrumental in strangulating the French export to the unoccupied zone so that this plight of Frossard's enterprises was a direct consequence of Farben's own efforts to this effect?

A. Let me read the document. At the moment I can not say whether the difficulties which were mentioned by Mr. Frossard here with respect to the dispatch of dye-stuffs and intermediate products into unoccupied France, were within the frame of the general directive or dispatches to unoccupied France.

Q. Now, I will show you Dr. Kramer's memo of 13 December 1940, NI 15232 which will become our Exhibit 2146. We had just one phrase processed. Will you please read this phrase and tell us whether you remember that the copy of this note was sent to you at the time.

A. That is a note which Dr. Kramer sent from Paris to Frankfurt.

Q. That's right.

A. I probably read it and I connect this note directly with what I said during my examination. In November we have, in the Hotel Majestic - - - - -

THE PRESIDENT: You have answered the question and any explanation that you wish to make with reference to any of these documents which are presented to you, if proper, will properly come in the reexamination of you by your own counsel. The Tribunal will now rise until nine o'clock tomorrow morning. Just a moment please.

DR. KROEN: Your Honors, I would only want to ask you on behalf of Dr. Nath that the defendant Dr. Ilgner be excused tomorrow from the morning and afternoon session because of the hearings before the commissioner.

THE PRESIDENT: That request is granted and the Tribunal is now in Recess.

CERTIFICATE OF COMMISSIONER

Under directives of United States Military Tribunal No. 6, testimony of witnesses listed below was required to be taken before the undersigned Commissioner. Pursuant thereto the said Commissioner has conducted hearings at which the following witnesses have fully testified:

<u>Date</u>	<u>Name of Witness</u>	<u>Official Transcript</u>
8 April 1948	Walter Warlimont	10875-10907
9 April 1948	Kurt Krueger	11128-11163
12 April 1948	Karl Weber	11165-11175
12 April 1948	Paula Ester	11177-11199
13 April 1948	Ernst Struss	11293-11338
14 April 1948 &	Christian Zahn	11444-11490
15 April 1948	" "	11587-11612
16 April 1948	Bernhard Schoener	11706-11723
19 April 1948	Adalbert Feindel	11827-11841
20 April 1948	Josef Grobel	11842-11860
20 April 1948	Gustav Pieter	11861-11878
21 April 1948	Emil de Haas	12098-12128
21 April 1948	Heinrich Schuh	12129-12140
23 April 1948 &	Heinrich Schindler	12337-12370
28 April 1948	" "	12707-12777
26 April 1948	Walter Kikuth	12461-12498
26 April 1948	Hans Sauer	12500-12512
27 April 1948	Wilhelm Duellborg	12598-12621
29 April 1948	Theo Goldschmidt	12871-12909
29 April 1948 &	Anton Reithinger	12910-12953
30 April 1948	" "	13075-13092
29 April 1948 &	Rudolf von Spretty	12954-12960
30 April 1948	" "	13065-13075
30 April 1948,	Rudolf Schmidt	13093-13133
5 May 1948 &	" "	13620-13629
6 May 1948	" "	13651-13719
3 May 1948	Wolfgang Alt	13246-13269
3 May 1948	Carl Gadow	13271-13291
3 May 1948 &	Kurt Hartmann	13292-13316
4 May 1948	" "	13412-13450
4 May 1948	Fritz Dion	13450-13460
4 May 1948	Kurt Eisfeld	13461-13479
4 May 1948	Adolf Taub	13480-13489
5 May 1948	Ernst Struss (for Pres.)	13566-13619
6 May 1948 &	Werner Schmitz	13720-13735
7 May 1948	" "	13861-13891
10 May 1948	Max Winkler	14173-14181
10 May 1948	Fritz Hirsch	14195-14209
10 May 1948	Ernst Kraschewski	14210-14220
10 May 1948 &	Franz Fuerstenberg	14221-14245
11 May 1948	" "	14377-14384
11 May 1948	Heinz Savoleberg	14387-14424
11 May 1948	Karl Hunscheidt	14425-14439
11 May 1948	Reinhold	14440-14455
10 May 1948	Friedrich Selcher	14482-14494


During the said proceedings the following exhibits have been offered in evidence:

PROSECUTION EXHIBITS

<u>Exhibit</u>	<u>NI No.</u>	<u>Official Transcript</u>
2302	PS 2353 C	10899
2303	L79	10904
2304	11036	11145
2305	11034	11182
2306	15070	11183
2307	11236	11302
2309	11232	11312
2311	15062	11327
2312	15063	11330
2314	11257	11468
2315	13524	11473
2316	11256	11473
2317	11251	11485
2318	11252	11476
2319	11014	11482
2320	11039	11834
2321	13084	11848
2328	10532	12615
2329	10528	12616
2323	10907	12706
2330	13525	12733
2331	15021	12878
2332	3763	12915
2333	15145	12921
2334	15146	12923
2335	8647	12927
2336	15132	12933
2337	1514	12942
2338	11098	13106
2339	13534	13111
2340	15215	13126
2341	15260	13620
2342	15173	13286
2343	7637	13728
2346	7666	13730
2352	15290	14382
2353	15296	14392

I, the undersigned Commissioner, do hereby certify that the aforesaid official transcript pages comprise a full, true and correct report of such proceedings, testimony and evidence heard and recorded therein before me.

Dated at Nurnberg, Germany, May 28, 1948.


 JOHNSON T. CRAWFORD
 Commissioner of Tribunal No. 6

Official Transcript of a Hearing before a Commissioner for Military Tribunal VI, Case VI, in the latter of the United States of America against Karl Krauch, et al, Defendants, sitting at Nurnberg, Germany, on 28 April 1948, the Honorable Johnson T. Crawford, Commissioner, presiding.

(The Commission convened at 1000 hours).

THE COMMISSIONER: The Court will come to order.

The witness has not been found yet.

MR. ALCHAM: We have some preliminary matters that we might take care of.

THE COMMISSIONER: Very well.

DR. BUELLER: Mr. Commissioner, may I use this opportunity to state for the record that the prosecution and the defense have agreed to call the Ambros witness Ulitzka next Friday, if you agree to that. Then, I also ask that the defendant Ambros be permitted to attend the session of the Commission.

THE COMMISSIONER: Permission will be granted.

MR. ALCHAM: If Your Honor please, at yesterday's session, at the cross-examination of the witness Duellberg, the prosecution offered in evidence various documents on which, for some mechanical reasons, it did not have the information at hand to assign to each of the documents the proper exhibit number. With Your Honor's permission I would like to read into the record now the documents that were offered at yesterday's session and assign to them the exhibit numbers in appropriate sequence.

As Prosecution Exhibit 2328 there was offered NI-10532.

As Prosecution Exhibit 2329 there was offered NI-10528.

Now, the third document, NI-10907, we ask to have assigned Exhibit No. 2323, the reason for that being that during the course of the hearings before the Commission there was a break in the continuity of exhibit numbers, and because of that deficiency we ask that Exhibit 2323 now be shown as having been in evidence and that NI-10907 is the document to which that exhibit is assigned. And with

that we maintain our continuity of exhibits.

The record will show and properly identify the documents that were offered yesterday.

I think, if Your Honor please, that at this session we are to continue the cross-examination of the witness Schindler, who was on the witness stand last Friday, and his examination was not concluded.

I think the record ought to show the presence of quite a substantial number of defendants: Krauch, Gajowski, Jachne, Oster, and Buetofisch, and I believe other defendants are represented by their counsel.

May I ask Your Honor to please have the witness take the stand?

THE COMMISSIONER: The witness will take the stand.

HEINRICH SCHINDLER, a witness, having been previously duly sworn, resumed the stand and testified further as follows:

THE COMMISSIONER: The witness is reminded that he is still under oath.

MR. ALCHAM: For the record, if Your Honor please, the witness is Heinrich Schindler, and this is a continuation of the cross-examination which started last Friday.

HEINRICH SCHINDLER (Resumed)

CROSS-EXAMINATION (Continued)

BY MR. ALCHAM:

Q. Mr. Witness, do you have before you your affidavits, which have been identified as DAG Document No. 12 and DAG Document No. 13? Do you have those before you?

A. Yes.

Q. Now, I believe that at the last session you told us how you compiled the statistics which are set forth in your affidavit, and you particularly identified the plants and the production of the plants which are included in your affidavit, Document DAG 13, under the column "DAG and Subsidiaries with Majority Participation." Is

that a correct statement of the situation thus far?

A. Yes.

Q. Now then, will you please direct your attention to the second column dealing with Montan and other Reich installations, and I ask you, Mr. Witness, to tell me which plants are included in the figures which are set forth under the column "Montan and other Reich Installations". Do you understand my question?

A. Yes. I only want to ask whether this question of yours is concerned with military explosives.

Q. Just direct your attention to DAG Document 13, under the column, "Montan and other Reich Installations", Your counsel tells me that it is document DAG 13-1. Now, that is your affidavit of December 19, 1947. In 13-1, DAG 13-1, you undertake to deal with military explosives, is that correct?

A. Yes.

Q. Go right ahead.

A. The following are Reich-owned plants.

Q. Just before we go into that, I want to be sure I understand that we are talking about the same thing. This list that you have before you in your affidavit is the list where you refer to the explosives trinitrotoluol, hexogen, nitropenta, hexanitrodipohylamin, and picric acid. Is that the list you are referring to?

A. Yes, yes, that is the list.

Q. And do I correctly understand that with respect to that list you have already completed your testimony with respect to the first column, that is, the column setting out the explosive figures of DAG and subsidiaries with majority participation? You have completed your testimony on that, is that correct?

A. The testimony on that point has been completed.

Q. That is right. Now, proceed, then, on the second column, "Montan and other Reich Installations", and tell me which are the

plants, the production of which you have included in this tabulation.

A. The productions which are included in this column are the same, so that they need not be mentioned again in detail. Now, I would like to list the plants which are concerned here.

Q. One moment, before you go into that. Do I correctly understand that when you said the listing is the same you are referring only to the products, is that right?

A. Yes.

Q. Now go ahead and list the plants.

A. Factory Kruckmoll; Factory Doornitz; Factory Hossisch Lichtenau; Factory Klausthal; Factory Elsnick; Factory Allendorf; Factory Tragan; Factory Guesen--

Q. One moment, please. What was the last one again?

A. Guesen.

Q. All right.

A. Factory Hrensborg; Factory Bobingen; Factory Doerberitz; Factory Christianstadt; Factory Ihlehow; Factory Wolfratshausen.

Q. One moment, please. What was the one before Wolfratshausen?

A. Ihlehow.

Q. Go ahead.

A. Wolfratshausen; and Herrenwald. Those are the plants.

Q Now that is fifteen plants in all, is that correct?

A Yes.

Q Now, why do you list the Kruemmel plant as a Montan plant and not a DAG plant?

A These are Reich-owned plants, and I have stated in a special affidavit, the reasons why I listed the Reich-owned plants separately and not as DAG and Farben plants respectively.

Q Will you tell me what the reason is for listing these Reich-owned plants under Montan? Before you answer that, let me put another question to you. These fifteen plants that you mention — who operated these plants?

A These fifteen plants belonged partly to the Verwertchemie and partly to the Wesag, and one plant belonged to the Warenkommissions AG.

Q So of the fifteen plants listed, fourteen were operated by Verwertchemie or Wesag, is that right?

A Pardon me, no. May I check this once more? One factory was directed by the DAG.

Q What do you mean "directed"? Did they operate that factory?

A I mean operated, yes.

Q Which factory is that?

A The Kruemmel factory. One part of the Kruemmel plant was Reich-owned and was operated by the DAG.

Q Was that adjoining the Kruemmel plant, which was owned by the DAG?

A I listed the Kruemmel plant before.

Q As being owned by DAG?

A This part of Kruemmel which we are concerned with here was not owned by Kruemmel, but was Reich-owned.

Q Well, I want to be sure I understand you. On the Kruemmel plant, a substantial part of it was owned by Dynamit AG and another part was owned by the Reich but operated by DAG. Is that a correct statement of the situation?

A Yes, and that is why I listed the Kruemmel plant twice. On the

one hand, I listed it under DAG and affiliated plants, and I named it once more under Montan and other Reich-owned plants.

May I now continue with the enumeration?

One plant was operated by DAG; eleven plants were operated by Verwertchemie; two plants were operated by Wasag; and one plant was operated by the Warenkommission AG.

Q Will you identify the two Wasag plants?

A Yes, those are the Elmdick and Herrenwald plants.

Q Are you familiar with the operation of these fifteen plants that you just mentioned?

A Pardon me, the question is not quite clear to me.

Q I say, you, as an official of Dynamit AG, a former official -- were you familiar with the operation of the fourteen plants that you mentioned a moment ago?

A I had to deal with the operation of the Kruemmel plant and of the eleven factories of Verwertchemie. That was in my capacity as Chief Engineer. As for the operation of the other plants, I had nothing to do with them.

Q Now, will you turn to your affidavit again and tell me what plants are included under the last column when you say "others"?

A Here we are concerned with the factories of Rheinsdorf, Schoonsbeck, and Semthin.

Q So that last column only includes those three plants, is that right?

A Yes.

Q Now take the Rheinsdorf plant. Who owned that plant?

A Would you repeat the question, please?

Q Take the Rheinsdorf plant. Who owned that plant?

A The owner of the plant was the Westfaelisch Anhaltische Sprengstoff A G.

Q That is Wasag, right?

A That is Wasag, yes.

Q Take the next plant, Schoenebeck. Who owned that?

A Lignose.

Q Who operated that plant?

A Lignose operated it, or I think Lignose, GIBB. I no longer know exactly.

Q Take the third plant that you mentioned — what was its name again?

A Semthin was operated by Explosia.

Q Now, does this complete the listing of the plants whose production figures you have included in this affidavit, DAG 13-1?

A Yes.

Q Now, is this a correct statement of the situation, that of all the plants you have listed, there are only two plants, Schoenebeck and Semthin, which are outside of the operations of Dynamit AG, Verwertchemie, and Wasag, is that right?

A That is correct.

Q Can you give me the percentage of the total production, according to your compilations, for Dynamit AG, Wasag, and Verwertchemie? Can you tell me what percentage those three firms have in your figures against the total figures included there?

A That would have to be calculated year for year according to the various explosives.

Q Well —

A For example —

Q Just one moment, Mr. Witness. I don't think you have to go through the detail. They are your own figures, they are your own compilations, I would like to have you do your own computing and give me the net result, namely, of all the plants you have mentioned you only refer to two that are outside of Dynamit AG, Wasag and Verwertchemie. Can you tell me what percentage those two plants bear to the total that you included in this compilation? Just give me a figure?

A. If the question is to be understood to the effect that factory is to be equal to factory, then I will quickly calculate it.

Q. Well, would this be a fair statement? You refer to production of five products. You don't break down the production in your chart, do you, according to those products? Have you done that?

A. I can either figure out the percentage by merely saying that factory equals factory —

Q. I would like to have you figure out the percentage using exactly the same basis that you used in compiling the figures which you put in this affidavit. Use the same standard of comparison that you used in compiling these figures. Do you understand my question?

A. Yes. Then I will have to figure it out year by year and separately, according to the various explosives. That is a very long calculation. This percentage varies from year to year and varies from explosive to explosive.

Q. Have you any approximate figure as to what percentage these two plants, Schoenebeck and Semthin, are in relation to the total? Have you got an approximate percentage—that is, two plants as against twenty-one that you mentioned?

A. The production of D.G. and of the Verwertchemie plants and of the Jasag plants naturally represented a percentage which is far above the half of the total production. But without computing it exactly, I don't want to give any figure.

Q. Would you say it is closer to ninety per cent of the total figures listed there?

A. No, I would not say that; but I do not wish to name any figure without calculating it first.

Q. Well, under the circumstances, I will have to ask you to give me the figures only for the Schoenebeck Plant and the Semthin Plant. Give me the total figures on that. Now, before doing that, the Schoenebeck Plant—tell me when it was built and when it was in production and what years your figures relate to as to Schoenebeck.

A. The Schoenebeck Plant had an old part and a newer part. The latter was built around 1935.

Q. Tell me what period is covered by the production figures of that plant.

A. The Schoenebeck Plant operated from about 1935 on, or rather appears on this chart from 1935 on.

Q. Could you give me the total production that you have included in the chart here for the Schoenebeck Plant?

A. Yes, I shall look at my documents. Here it says, figures 1934-- I am just giving approximate figures now.

Q. Those are figures you included in your compilation?

A. I wanted to give them approximately, but I can give them exactly.

Q. No, you can give them approximately. All I want to know is that these are substantially the figures that you included in your compilation; is that right?

A. Yes, that is true. 1934, figures, 1500 tons. 1935, 5000 tons. 1936, 6500 tons. 1937, 7200 tons. 1938, 8400 tons. 1939, 8300 tons. 1940, 8000 tons. 1941, 8700 tons. 1942, 8000 tons. 1943, 8500 tons. 1944, 7000 tons.

Q. Give me the total.

A. May I add those up now?

Q. All right.

A. Yes, I get 77000 tons.

Q. Now, will you turn to the Saxthin Plant, the other plant which is outside of the Dynamit A.G., Hoesch, and Vornortchenia field. What years are covered by the Saxthin Plant in your compilation?

A. The Saxthin Plant only plays a part in the later years. Those are 6000 tons.

Q. What year?

A. For 1943 and 1944. It may be --

Q. I am only interested, Mr. Witness, in the figures of this plant which you included in your chart and if you are about to testify as to

anything which is not included in your chart I am not asking you about that. Now the production for 1943 and 1944 that you just gave, 8000 for each year, is that included in your chart?

A. 8000 total; 8000 tons for both years.

Q. For 1943 and 1944, 8000 for both; is that right?

A. Yes, that is right.

Q. Now then, will you turn to your DAG 13-1 and under column 1, where you have the total production -- do you have that before you?

A. Yes.

Q. Now in your own testimony you made some changes, do you remember that?

A. Yes.

Q. And you increased some of the figures that appear on the affidavit which was distributed; is that right?

A. Yes, in 1938 and 1939, I corrected something.

Q. Now bearing those corrections in mind, will you please give me the total under column 1, that is the total production of 1930 to 1934 which you list in your affidavit 13-1? Will you give me the total figure on that?

A. You mean the total figure which is under the column "total," that is in the first column?

Q. That is right. 1930, beginning with 3850 tons, down through 1944 with 209290 tons. Give me that total. Now, to be sure that we understand each other, will you repeat once more, for the record, the corrections as to 1938 and 1939? What are the correct figures for 1938?

A. For 1938 under "total," I listed 48000, rather 48030, under "DAG and affiliated Plants."

Q. No, just restrict your testimony to the first column for the time being, the total figures, the changed in that column.

A. Yes, there is only the correction 48030. Now, I will add up the figures.

Q. One moment please. Did you say you made a change for the year 1939 also, or did I not understand you correctly?

A. For 1939, in the last column, under "others." But this correction does not influence the total figure which is given under column one.

Q. Okay. Now, the total on column 1. Have you got the figure?

A. Yes. I just see that I have this total figure already calculated in my affidavit itself. There it says, and it lists as a total production figure from 1930 to the end of the war, approximately 1,050,000 tons.

Q. Now that is the total of column 1, 1,080,000 tons; is that right?

A. Yes.

Q. Now, then, the total production of the two plants that you refer to which are outside of Dynamit AG, Wessag, and Verwertchemie amount to 85,000 tons; is that right?

A. Yes.

Q. Now, then, give me the percentage -- 85,000 tons to 1,080,000 tons. What is the percentage?

A. Eight per cent.

Q. Is it a fair statement now, Mr. Witness, on your own calculations that in the production figures in your own affidavit, DAG-13-1, the production of Dynamit AG, Wessag, and Verwertchemie constitute 92 per cent of the total production in your affidavit? Isn't that the fact now, on your own calculations? Please answer that with yes or no.

A. Well, I must make some statement here.

Q. Before you make the statement, let me have your answer. Is it not correct that on the computations you just made on your own figures 92% of the total production of explosives come from Dynamit AG, Wessag, and Verwertchemie? Isn't that correct on your own computations?

A. Yes, that is correct.

Q. Now, then, that is considerably more than your earlier estimate of 50%, isn't it?

A. Pardon me, I said far above 50% and I did not want to pin myself down to any figure without calculating it first.

Q. You have gone through the calculations?

A. Yes.

Q. Now, will you turn back to your DAG Document No. 12.

DR. GIERLICH: Mr. Commissioner, may I ask that the witness be given an opportunity to make his statement, which he wanted to make before/

MR. MCHAN: I think, when a responsive answer has been given by

the witness, if there is anything further to be brought out, that is for redirect on the part of defense counsel. When the prosecution is conducting a cross examination, when there is a responsive answer the witness ordinarily is not permitted to volunteer additional statements which are not embraced in the question which counsel puts to him. Now, if there is any additional explanation which the defense wants to bring out, that is the function of redirect as I understand it.

DR. GIERLICH: Mr. Commissioner, this is not a matter of giving any additional information but the witness had the intention on his part through some statement to explain his answer or to limit it or to explain it and if he was not permitted to do so beforehand he at least must be given this opportunity to do so afterwards as this has been customary in court.

THE COMMISSIONER: As he wanted to qualify that, we will let him make whatever explanation he cares to. (Judge is not clear)

INTERPRETER LEA: Sorry, Judge, we cannot hear you.

THE COMMISSIONER: The witness wanted to make some explanation before he answered the question, so he should be allowed to make a short explanation if he cares to at this time.

THE WITNESS: Then, first of all, I would like to say that now one goes from the premise that everything was thrown into one pot and especially all Reich-owned plants which had the lion's share of this whole business. Secondly, I want to say that whatever is listed under explosives production can be interpreted in various ways. I can define the production of explosives —

MR. AMCHAN: Just one moment, please. If Your Honor please, I respectfully submit that this explanation is not responsive to the question put to him. It is so far afield that its irrelevancy is patent. Now, if we are to pursue this course then the orderly conduct of these hearings cannot take place because the witness would then undertake to give us a general discussion and treatise on the various technical sides of what is or what is not explosive. The question I put to him was

quite simple. On his own figures, on his own chart, and on his own calculations the question is—so that the witness shall understand—again: Is it not a fact, Mr. Witness, that on your own figures, as set forth in your affidavit DAG 13-1, the production of Dynamit AG, Wasag, and Wertchemie constitute 92% of the total production listed by you in this affidavit; is that the fact?

THE WITNESS: That is correct, but if I turn to page 4 of the same affidavit — and that is what I wanted to mention in my statement—then the thing looks wholly different and I ask that I be given the opportunity to explain this point briefly, in three or four sentences.

MR. MCHAN: If Your Honor please —

THE COMMISSIONER: If he will do it in three or four sentences, we will let him do it.

THE WITNESS: I said before, secondly one can define the production of explosives.

MR. MCHAN: Mr. Witness, I am sorry to interrupt. Can you tell me what part of your affidavit you are referring to now?

THE WITNESS: To the second part of my affidavit. In my original, this is on page 4.

MR. MCHAN: Now, is that the chart and the tabulation where you say before 1936 there were hardly any filling plants in operation? Is that the chart you were about to refer to?

THE WITNESS: That is right.

MR. MCHAN: If Your Honor please, I have asked no questions about that tabulation and I think it is wholly improper for the witness to undertake on his own to explain.

THE COMMISSIONER: I believe we will defer that and let his attorney on redirect let him explain that. I believe it would take too long the way he is going at it now.

BY MR. MCHAN:

Q. Now, Mr. Witness, will you please direct your attention to your affidavit contained in DAG Document No. 12 and tell me, under the column

"civilian explosives," just how you got those figures and the source. Where did you get those figures?

A. These figures come from compilations of the explosive sales department, sales company.

Q. And when did you get those?

A. Last year. Pardon me, I must add something. As for these figures of the explosive sales company, there are those figures added which concern the factories of the DAG concern and also those figures are added which concern certain exports of TNT.

Q. Now, Mr. Witness, will you tell me exactly what documents you had before you at the time you compiled this tribulation of civilian explosives. Identify the document and tell me its source and its present location.

A. I already said these are monthly compilations of the explosive sales company.

Q. And where are those compilations now physically located?

A. Part of these charts are in Troisdorf and a few charts I probably have myself.

Q. Did you secure those charts in the same way that you got the other documents you testified to about Friday, namely that you got in touch with this company or this agency and asked them for the figures and they gave you the figures and based on that you went ahead and compiled them; is that right?

A. Yes, that is right.

Q. Did you ever check those figures that they gave you against any records of Dynamit AG or did you just take their figures and make the compilation?

A. I took these figures from those compilations and I compared them to the figures of Dynamit AG or rather, correction, a comparison between those figures and the figures of the DAG is not possible easily because in my compilation the figures of those plants belonging to the concern are also considered and of course these figures are not

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contained in the compilations of the Dynamit AG. As such there was
no reason for me to doubt the correctness of these compilations of the
explosives experimental company.

Q. Mr. Witness, would this be a fair statement: that with respect to this affidavit, DAG Document No. 12, and with respect to the affidavit, DAG Document 13, all you did was to ask these people for figures, and after receiving those figures, you made the compilations without any check against any official records? Is that a fair statement of the situation?

A. No, I had had several possibilities of checking up; for example, for 1936 there was a statistic of the statistical department of the Reich. These statistics contained—

Q. Mr. Witness, excuse the interruption. I think it would be simpler if you were to tell us now exactly what you did in checking the figures you got against official records and indicate just what you did and what records you checked them against?

A. I already said that the figures for the year 1936 were available and I had the opportunity to compare my compilation with an official compilation of the Statistical Reich Office. Thus I was able to check up on them.

Q. For the year 1936?

A. For 1936. I found there a good agreement for the total figures for civilian explosives, for military explosives, for powder and for fillings. Secondly, I made a comparison with a lecture which was given at an affair of the main committee for explosives and examination of explosives in March 1943.

Q. Whose lecture was that?

A. This lecture was held, as far as I remember, by the director of the main committee.

Q. What was his name?

A. Dr. Sarazin. In this lecture, figures were given for the individual war years, that is, the monthly production figures of power and explosives, and these figures too agree with my figures which of course were determined quite independently of the others. Thirdly, I must point out that in the summer of 1945, an American commission

visited me led by a Dr. Lawrence. These gentlemen came to see me because they knew that I was active in the main committee for powder and explosives.

Q. Just tell us, Mr. Witness, what records you examined and don't tell us your life history. Is that all the records you examined and checked the figures you received against?

A. I wanted to say that the compilations which I now made agree with those which I gave Dr. Lawrence at the time—or rather that I compared those with Dr. Lawrence—and there too I found that they agreed quite nicely, even if corrections had to be made in some unessential matters.

Q. Now, Mr. Witness, are you familiar with the statistical data which Dynamit A.G. kept in connection with military and civilian explosives? Are you familiar with their system of keeping those records?

A. I probably saw some of those lists. It depends which special records you mean.

Q. Now is it not a fact, Mr. Witness—Defense counsel calls my attention to a technical matter dealing with translation which would necessitate my putting the question again to the witness. Mr. Witness, do I correctly understand that you are familiar with the administrative system and procedure in effect in Dynamit A.G. dealing with the statistics for civilian and military explosives, is that correct?

A. I am fairly familiar with it.

Q. Now then, is it not a fact that the sales department of Dynamit A.G. prior to 1 September 1939 furnished Farben with periodic reports, and in those reports indicated the turnover figures, breaking them down according to civilian and military explosives? Isn't that a fact?

A. In detail, I do not know this.

Q. Do you know that in general whether such reports containing such breakdowns as to military and civilian explosives were compiled by

the sales department of Dynamit A.G.?

A. I do not know that this was done regularly, but one or the other of such compilations I did see.

Q. Now do you know whether there was also a breakdown made by the production department of Dynamit A.G.—not the sales department but the production department—indicating the production according to tonnage with a breakdown into military and civilian explosives? Were any such figures made by the production department of Dynamit A.G.?

A. Certainly, this was probably the case.

Q. Do you know definitely whether the production department kept such figures?

A. No, I cannot say exactly. First of all, I no longer remember this from the past, and secondly, we lost a whole lot of documents.

Q. But you are definite, are you not, that the sales department did have a breakdown in its turnover figures according to military and civilian explosives? That you do remember? You're definite on that, is that correct?

A. About the question of turnover, I want to say that just turnover figures cannot be taken for this compilation because they would give a completely wrong picture. For example, Trinitrotoluol, which is produced and which is processed with the Verwertchemie, having it filled into bombs or grenades, such TNT would not even appear in the turnover figures. In other words, in this connection one cannot do anything with turnover figures here, so that I thought it proper to go back to the sources. But there are also other difficulties about these turnover figures; for example, hexogene was perhaps produced in the Verwertchemie plant and was dried in a D.G. owned plant such as Krummel. All these things bring a totally wrong picture, if I calculate by turnover figures. I must calculate with production figures, and — I got these from the people...

Q. Mr. Witness, I think this is the time for our recess, and we will suspend, if Your Honor please.

THE PRESIDENT: The commission will be in recess for about 15 minutes.
(A recess was taken.)

DR. JUELKE: Mr. Commissioner, if it suits the Tribunal, I request, in agreement with the Prosecution, that tomorrow afternoon at 1:30, 29 April 1948, Thursday, the witness Gadow be cross-examined here. He is a witness for Ilmer. I ask that the Defendant Ilmer be called in during the cross-examination. May I ask that in case the cross examination of the witness Schindler should continue this afternoon, all the defendants present here be excused except the defendant Gajewski.

THE COMMISSIONER: Very well, your request is granted.

BY MR. AMMAN:

Q Mr. Witness, before the recess you were undertaking to tell us about the sources for your compilation in connection with civilian explosives. Now, you yourself undertook to give examples of trinitrotoluol and hexogene. Suppose we take those as examples in order to see whether I correctly understand you. How did you list trinitrotoluol in your compilation, as a civilian explosive or a military explosive?

A TNT is, of course, first of all, a military explosive.

Q And how did you list it in your affidavit?

A It is mostly listed among the military explosives. Only a few times is it mentioned among the civilian explosives. On one occasion, TNT is listed as a component of civilian explosives, to the extent that it was exported as such.

Q Now then, at what point do you say that trinitrotoluol is to be classified as a military explosive or civilian explosive? Is it at the point that it is produced in your plants or is it at the point that it is sold?

A No. This is not the important thing insofar as TNT forms a component of civilian explosives. To that extent, TNT becomes a civilian explosive. Apart from that, I added the TNT that was exported to the civilian explosives.

Q Sorry, I don't understand your answer. Let me put it

to you again. Do you classify a product as a military or civilian explosive at the point of production or at the point of sale?

A Let me say from the point of view of its use.

Q When do you determine the use to which the product is to be put? Is it at the point it is produced or at the point that it is sold to a user?

A That varies in every case. In some cases it is obvious right from the start why this product is being produced.

Q How is it obvious?

A I said it varies. Sometimes it is decided before or during production, and sometimes it is not decided until the finished product exists.

Q Sorry, I still don't understand, Mr. Witness. I will have to put it to you again. Take the specific case of trinitrotoluol and assume that Dynamit A.G. produces 1,000 tons. The point at which production ceases, and you have 1,000 tons, are you able to classify that as civilian or military explosives? At that point, are you able to classify it?

A No, one cannot classify it then.

Q Now, after you have the thing produced, you undertake to sell it to people who are going to use it. Are you able to classify trinitrotoluol in the example I gave you as to whether it is going to be civilian or military explosive, at the point when you are selling it.

A At that moment, when it is sold, it is obvious whether it will be put to military use, because it is sold or used for a certain purpose. In the latter case, particularly, it is obvious whether this is military or civilian use.

Q Now let us take the case of hexogene you mentioned. How do you classify that, a military or civilian explosive, and at what point do you classify it?

A Hexogene would have to be considered a purely military explosive.

Q Is that because it has no peacetime use at all?

A No, at the moment I cannot think of any use; hexogene has to be considered purely from a military point of view.

Q Would this then be a fair statement, Mr. Witness, that when a product that is an explosive is produced, if from the nature of the product it has only a military use, you can then determine, at the point of production, whether it should be classified as a military or civilian explosive? Are we right so far?

A Yes. In the case of a product like hexogene it is quite obvious from the start. But, in case of a product like TNT it is not obvious from the start.

Q Let me put the second question to you. When you have a product, an explosive, which could be used both for civilian and military purposes, is it not a fact that you can only classify the product for civilian or military purposes at the point when the product is to be distributed for a particular use? Isn't that the fact?

A In general, that is correct. At that point when the product is intended for a certain use.

Q Now, in your figures about civilian explosives, did you include the explosives used in connection with the West Wall fortifications? Did you include those as civilian or military explosives?

A I listed them as civilian explosives because as military explosives I merely listed those explosives which I mentioned expressly, like TNT, hexogene, nitropenta, picric acid and hexanitrodiphenylamine.

Q Now, is it not a fact that in your concept of civilian explosives, in the tabulation that you have in your affidavit, you also include explosives that serve a military purpose, such as explosives by the Military Engineering Corps, explosives for filling of hand grenades, and explosives in connection with the erection of fortifications. Is it not correct that you have included those kinds

of explosives under civilian explosives?

A The explosives which were used for the West Wall and similar things, are, according to their nature, civilian explosives and therefore I listed them as such. The explosives used to fill hand grenades were particularly small quantities and one could simply omit them here.

Q How did you include those, as civilian explosives?

A The explosives which were used for filling hand grenades are not listed.

Q And how about explosives used by the Engineering Corps of the German Wehrmacht? Did you include those under civilian explosives?

A If they were civilian explosives according to their character, then I listed them as such.

Q Sorry, I didn't understand your answer. What do you mean according to the character? Explosives that went to the Engineering Corps of the Wehrmacht, did you list them as civilian or military explosives.

A If they were explosives, say nitroglycerine explosives, in the usual compounds such as were produced in our factory in Schlebusch, in our plants where only civilian explosives were produced, then they were listed among the civilian explosives. I mentioned expressly in my affidavit that military explosives meant exclusively the five explosives mentioned by me before.

Q Now you testified that in the compilation of your figures, dealing with the production of trinitrotoluol under Dynamit A. G. plants, you only included the Schlebusch plant, is that right?

A In the production of TNT, the factory of Schlebusch is the only one of the Dynamit A.G.-owned factories.

Q Is it not a fact that, in addition to the Schlebusch plant, the Kruesel plant, the Doemitz plant, and the Elanick plant of Dynamit A.G. produced trinitrotoluol? Isn't that a fact?

A Kruemmel produced TNT. Kruemmel was a Reich-owned plant. Doemitz produced TNT, and this was also a Reich-owned plant, operated by the Verwertchemie. The last one you mentioned, I think it was Elsnick, was a Wasag plant which also produced TNT.

Q Now as to Verwertchemie, did they have the same directors as Dynamit A.G.?

A The directors of the factories were various people, of course. They were different people insofar as it concerned central administrative positions. There was a kind of personal union, for example, in my own case. I was Chief Engineer of the Dynamit A.G. and also of the Verwertchemie.

Q Now I am asking about the other high officials of Verwertchemie. Isn't it a fact that in addition to their positions in Verwertchemie they also held high positions in Dynamit A.G.? Isn't that a fact?

A I think there were seven managers of the Verwertchemie who, if I remember correctly, carried out certain functions in the Dynamit A.G. as well.

Q What do you mean, they "carried out certain functions?" Were they also officials of Dynamit A.G.?

A Yes.

Q Now, in connection with the production of trinitrotoluol, is it correct to say that a basis for the production of that produce is mononitrotoluol?

A It depends. It is either toluol or mono nitrotoluol.

Q Now, where did Dynamit A.G. and Verwertchemie and Wasag get its mononitrotoluol for the production of trinitrotoluol?

A The situation was like this. The Schlebusch plant of the Dynamit A.G. got the mononitrotoluol from the Leverkusen plant. The plants of the Verwertchemie in that respect were quite independent and they made mononitrotoluol out of toluol themselves. In the Wasag in Elsnick, it was like this, as far as I remember: during the first

period, the Wasag obtained this product from an I. G. Farben plant, but later on, the Elsnick plant arranged for its own production of mononitrotoluol, thus becoming independent.

Q The Dynamit A.G. or Verwertchemie or Wasag, did they receive any of its mononitrotoluol from any firms other than Farben, Wasag, or Verwertchemie?

A I can not say, but I wish to repeat that the amounts of mononitrotoluol which were obtained from I. G. Farben were very small compared to those amounts of mononitrotoluol which the Verwertchemie and Wasag produced themselves out of toluol.

Q Now, you testified, in connection with your production of picric acid, that no Dynamit A.G. plants produced picric acid. Did I correctly understand that as your testimony?

A Yes.

Q Was it not a fact that the following Dynamit A.G. Plants produced picric acid, Doemitz and Kessisch-Lichtenau?

A These two plants of Verwertchemie produced picric acid.

Q Now, back to mononitrotoluol. In 1937, or 1938, isn't it a fact that all of the mononitrotoluol which the A.G. Verwertchemie and Wasag received came from Farben? Isn't that a fact?

A Insofar as I.G. Farben and Verwertchemie bought mononitrotoluol in 1937 or 1938, I would assume that they got it from I. G., but I am not certain.

Q Now, in connection with your testimony about hexogene, you did not include the production of the Dynamit A.G. Rottweil plant, did you?

A I beg your pardon, what was the name of the plant?

Q The Rottweil plant of Dynamit A.G.

A Rottweil was an I.G. Farben plant. The production of hexogene was so small — they only had an experimental plant — that the percentage is hardly worth mentioning. That is why I didn't

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mention it. The share of Rottweil in the entire production of
hexogene, certainly is below 1%.

Q What year are you talking about?

A I am talking about the total production, from the beginning of the production of hexogen until the end of the war.

Q Are you yourself familiar with the development of the production of hexogen?

A I don't quite understand your question. Do you mean insofar as quantities are concerned, or do you mean the work of developing it?

Q The development leading to the production. Are you generally familiar with it?

A I am approximately acquainted with the history of this development. They made experiments in Rottweil concerning the production of hexogen. As far as I am informed, they thought that they could use hexogen as a component of hunting powder, but later on this proved to be impossible. On the basis of this work of development in Rottweil, a Verwertchemie plant was built in Bobingen, which had a production of one hundred tons per month.

Q When was that?

A The factory began operation soon after the beginning of the war.

Q When was it built?

A It was built in the year before the beginning of the war.

Q And did you confer with Farben officials in connection with the construction of that plant for hexogen?

A Yes.

Q Whom did you confer with?

A I talked to the Chief Engineer of Wolfen, Herr Riess, and with some of the gentlemen who were in the vicinity of Bobingen.

Q Did you talk to any of the defendants in connection with hexogen?

A No.

Q Are you familiar with the Elsnick plant which produced hexogen?

A I only know the Elsnick plant very superficially. I visited it occasionally about three or four times in all.

Q Was that before the war, before September 1939?

A One visit might have occurred before the war, and two or three visits during the war.

Q Did you ever confer with any Farben officials in connection with the experiments on hexogen that were taking place at Elsnick?

A Yes, I believe there was a Dr. Schoenemann, if I remember correctly; I think I talked to him about it. Apart from that, the Elsnick hexogen process did not concern us and therefore I am not informed about it.

Q Now then, did you also confer with the defendant Ambros about the testing of hexogen in connection with the Elsnick plant or other plants?

A It is possible, but my memory is not very clear about that, as to whether Dr. Ambros was present when I had this discussion with Dr. Schoenemann. I believe this was a discussion in which several people took part.

Q Now I show you a document MI-13525, which we offer in evidence as Prosecution Exhibit 2330. This is a letter of 5 November 1938 from Dr. Ambros, addressed to Dr. Krauch, and he refers to a discussion with Dr. Schoenemann, whom you just mentioned, in connection with Ambros's collaboration with Wasag on the subject of hexogen.

I ask you, Mr. witness, does this document refresh your recollection that you did discuss with the defendant Ambros technical questions of collaboration with respect to the production of hexogen? Is your recollection refreshed by this document?

A Discussions with Dr. Ambros about the hexogen project or the hexogen process in Elsnick did not concern me; that did not concern the Dynamit AG. However, if this refers to discussions with Dr. Ambros about the production of formaldehyde and hexamethylene tetramine as preliminary

products of hexogen, then this is a special case. However, this document has nothing to do with that.

Q I am asking whether this document refreshes your recollection that you had discussions with Dr. Ambros about the preliminary products of hexogen.

A No, because this document has nothing to do with the preliminary products formaldehyde and hexamethylene tetramine for the hexogen plants in Doboritz and Christianstadt, and therefore it can not refresh my memory.

DR. GATHER (Counsel for the defendant Ambros): I object to this document. I am grateful to the witness for the information he has given us, but it proves to me that this has no connection at all with the subject discussed in the affidavit, which is the subject of this cross-examination.

MR. AMCHAM: The witness testified about hexogen, and this is pursuing the inquiry on that subject.

THE COMMISSIONER: The objection will be noted in the record, and the Tribunal, when they come to consider the evidence, will pass on it.

BY MR. AMCHAM:

Q Now, in connection with your testimony about nitropenta, is it not a fact that nitropenta was produced at Rheinsdorf?

A I beg your pardon, where?

Q Rheinsdorf.

A Nitropenta was also produced at Rheinsdorf, yes.

Q You did not include that in your figures, did you?

A Yes, I did consider that, under military explosives, and among "others". The Rheinsdorf nitropenta production is also included there.

Q Now, in your Exhibit document DAG 13-1, you stated, if I understood your testimony correctly, that under nitropenta you only

included Troisdorf and Kruesmel; you did not include Rheinsdorf, is that correct?

A The production of nitropenta of the DAG and subsidiary plants was carried on in Troisdorf and Kruesmel, and these two plants are considered under DAG and subsidiary firms. Among "others", the nitropenta production of Rheinsdorf is included.

Q Who owned the Rheinsdorf plant?

A The Rheinsdorf plant factory belonged to the Wasag.

Q Now, what is pentaerythrite used for?

A Pentaerythrite is a preliminary product of nitropenta. However, apart from that, it has a number of chemical uses of which I would like to mention, as an example its utilization in the plastic and artificial leather industry. Further uses of pentaerythrite probably, also exist, but since I am not a chemist I cannot think of them.

Q Do you know where Dynamit AG got its pentaerythrite to use for its explosive production?

A A small part of this was furnished by IG Ludwigshafen, but apart from that, and mainly it was supplied factories which were subsidiaries of the Hlag, if I remember correctly, Reich-owned factories, which were built for that purpose in order to supply the Reich-owned nitropenta plants with the preliminary product, penta. So far as I still remember, concerning the pentaerythrite which came from Ludwigshafen, there were difficulties about the quality; the product was not pure enough.

Q Now, in 1937 and 1938, is it not true that a substantial part of the pentaerythrite which Dynamit AG received came from Ludwigshafen or Farbon, isn't that the fact, a substantial part, about 75 percent?

A Well, I can't say but in 1937 the nitropenta production was very small.

Q Now, with whom in Ludwigshafen did you discuss the question of production and deliveries of pentaerythrite?

A I personally did not have any discussions about this; this was up to our purchasing department.

Q Did you discuss technical questions of production with anyone in Ludwigshafen?

A No, that was not my task.

Q Did you ever discuss that with Ambros?

A I don't remember that I discussed pentaerythrite.

Q You testified that you first came into official contact with Krauch in the second half of 1938. Do you recall the occasion?

A That was in connection with the fact that the Reich Office (the Reichamt) took over its controlling function concerning the construction of powder and explosives factories.

Q Can you fix the season of the year? Was it the summer, July, or August, or September when you first met Krauch?

A Without remembering it exactly, I would say it was September.

Q Now, do you know what the Karinhall Plan is?

A I beg your pardon, what did you say?

Q I say, do you know what the Karinhall Plan is, or was?

A Yes, I did hear about that. That was a general compilation of production figures, of capacities, and of intended increases of capacities which were set up in connection with the Four Year Plan.

Q Now, is it not a fact that you conferred with the defendant Krauch in August of 1938 in connection with the setting of the Karinhall Plan?

A Details were certainly not discussed between me and Professor Krauch. The experts of Krauch's office, of course conducted conferences about those factories whose construction was to be carried out on the order of the Army Ordnance Office, and they were either being constructed or they were intended to be constructed.

Q Were you called in, then as an expert on explosives at that conference?

A I was called in particularly as an expert on explosives or, to put it more clearly, as that member of Dynamit AG who had to deal mainly with the construction of these plants on the order of the Reich.

Q And what particular field of activity did you discuss at this conference with Krauch and the Army Ordnance Office in connection with the setting up of the Karin hall Plan? What was your field of activity, and what expert advice did you give in connection with this plan?

A I did not give expert advice. I made statements about the factories which were being constructed, or whose construction was about to be started by the Dynamit AG; I discussed their intended output and the possible deadlines.

MR. ANCHER: This might be an appropriate point to recess, if Your Honor please, and I think the witness should be instructed that he is under cross-examination.

THE COMMISSIONER: Since it is 12:20, the Commission will be in recess and the witness is instructed that he is under cross-examination and is not to talk to anyone about this evidence.

The Commission will recess until 1:30.

(A recess was taken until 1330 hours)

AFTERNOON SESSION

(The Commission reconvened at 1330 hours)

THE MARSHAL: The Commission is again in session.

HEINRICH SCHINDLER (Resumed)

CROSS-EXAMINATION (Continued)

BY MR. AMMAN:

Q Mr. Witness, just before the recess I believe you were testifying to the fact that about August of 1938 you had conferred with the defendant Krauch and other officials of the Army Ordnance Office in connection with the Karinhall Plan. Is that right?

A It was a short conference with Professor Krauch, and there were other conferences with officials of Krauch's office.

Q Did that relate to the details of the Karinhall Plan?

A As I have already stated, that referred to powder and explosives factories, to their capacities, and to the deadlines by which these products had to be finished. These were plans which had been fixed by the Army Ordnance Office and about which Krauch's office wanted to get some information.

Q And do I correctly understand that at that discussion you were dealing with the technical details of production and plant capacities to meet the schedule or plan which the Army Ordnance had set out? Is that a fair statement of the subject matter of the discussion?

A Yes, but in the conference with Professor Krauch these details were not treated; they were, however, discussed with his officials afterwards.

Q They were discussed with members of his staff, is that what you mean?

A Yes.

Q Now, when Dr. Boettcher examined you on direct examination you testified that Dr. Krauch and his office took no initiative in the powder or explosives field or in connection with the preliminary products in that field. Did I correctly understand that to be your testimony?

A My testimony referred to the powder and explosives field, and in that field there was no initiative on the part of Krauch's office.

Q Was there any initiative on the part of Krauch or his office in the field of preliminary products for the production of powder and explosives?

A I am not in a position to say; that did not belong to my field of work.

Q Is it not a fact, Mr. Witness, that the success of the explosives industry was due in large measure to the initiative and participation of Dr. Krauch as General Plenipotentiary for Special Questions in Chemistry? Is that not a fact? Just answer that "yes" or "no" if you can.

A In my opinion that is not a fact as far as it concerned powder and explosives.

Q Do you recall, Mr. Witness, having given a lecture in March of 1943 before the Main Committee on Powder and Explosives of the Ministry for Armaments and Munitions? Do you recall having given such a lecture on this subject of the production and filling of explosives?

A Yes.

Q Do you recall stating at that time, and I am quoting:

"Let me repeat that the successes I reported constitute the result of consistent work lasting many years, whereby the initiative and participation of the Army Ordnance Office and the General Plenipotentiary for Special Questions for Chemical Production must not be forgotten."

A I recall that I said that.

Q That is enough.

A First of all I mentioned the Army Ordnance Office in that connection.

Q I read to you your speech, an excerpt from your speech. I merely ask you whether or not you recall having said that.

Do you recall or don't you recall?

A Yes, yes:

MR. BOETICHER: It is customary in this Court that if a witness wishes to make an explanation about the answer which is asked him, he gets an opportunity to do so. Therefore, I ask the Commissioner to tell the Prosecutor to give the witness that opportunity to make that brief explanation which he wishes to make.

MR. ANCHAM: We covered that ground before and when a question is asked the witness which simply is, "Do you recall whether or not you made such a statement?" after giving a responsive answer whether he recalls or not, that is sufficient and he is not at liberty in the absence of further questions by counsel to undertake to give explanations about his speech. If the defense counsel want to bring out anything about the circumstances of that speech, that is for them to do on redirect examination, but when I am cross examining and merely ask him whether or not he recalls having made a statement, we would be out of line if we permitted the witness to go ahead with gratuitous statements about the circumstances and everything else in connection with that subject.

DR. BOETTNER: I also ask the prosecution either to identify this document or to submit it into evidence so that the defense can comment on it because it never gives a complete picture if a sentence is torn out of context and quoted by itself.

MR. ANCHAM: Well, just to accommodate the defense and for their convenience -- although in this particular case the witness said he remembered and that should have been sufficient--but for the convenience of defense counsel, I was quoting from Prosecution Exhibit 1919, which is NI-14071.

INTERPRETER LEA: What was that number again, please?

THE COMMISSIONER: The defense may take the witness on direct, can ask him, and let him give any explanations he cares to.

MR. ANCHAM: That was Exhibit 1919, NI-14071.

BY MR. ANCHAM:

Q Mr. Witness, you testified that at the beginning of the war the capacity for gunpowder plants was 5,000 tons a month and the capacity for explosives plants was 55,000

per month; do you recall that as your testimony?

A 5,500 tons you mean, in the explosives, 5,500.

Q That is right and for gunpowder 5,000 a month, is that correct? Is that a --

A Yes, that is right. These are statements which --

Q First I want to know whether that correctly sets forth your testimony.

A Yes.

Q Now, are these your own figures or are these figures taken from the United States Strategic Bombing Survey, Exhibit 616, which you refer to in your affidavit?

A The latter is the case.

Q Do you have -- do I understand you to mean then that all you were doing was quoting the figures from the United States Strategic Bombing Survey, Exhibit 616, is that right?

A Yes, but I also said that these figures agree approximately, in my opinion.

Q Agree with what?

A I said that in my opinion these figures named by the Americans approximately correspond to the facts.

Q Now, then, the figures in Exhibit 616 about the United States Strategic Bombing Survey, they only go through 1938. They do not go to September 1, 1939; isn't that so?

A I do not remember that.

Q Well, did you study Exhibit 616 at the time you made your affidavit?

A This was document NI-10580.

Q That is right, that is the same document we are talking about. Exhibit 616, NI-10580. Now, did you study the exhibit at the time you made your affidavit?

A Yes.

Q Do you have that exhibit before you?

A Yes.

Q Is it not a fact that that exhibit gives figures only through 1938 and does not extend up to 1 September 1939?

A In my affidavit, I assumed that these are the figures at the beginning of the war.

Q But you just stated that your assumption is based on the figures contained in Exhibit 616 and my question to you is, why do you make an assumption that the figures are based on capacity up to 1 September 1939 when the exhibit only goes up to 1938?

A I do not have the prosecution exhibit in front of me and I can't say any more about it.

Q Well, to be entirely clear about the matter, you did not undertake, in your affidavit, to give any independent figures in Exhibit 616; is that correct?

A I referred to that, yes.

Q Did you give any figures on your own? From your own sources?

A I thought about the figures and my own opinion was about the same as the results I achieved here.

Q And the figures that you quoted in your testimony, namely that at the beginning of the war the capacity was 5,000 tons a month for gunpowder and 55,000 tons per month for explosives, those figures, are they your own figures or are you merely reciting the figures of Exhibit 616?

A Those two figures come from the exhibit. I said that the figures are approximately correct.

Q I am sorry, I don't understand your answer. Could you please give me a direct answer? Are those figures from Exhibit 616 or are they your own figures?

A The figures 5,000 and 5,500 come from the exhibit.

Q 616, NI-10580?

A Yes.

Q Now, isn't it a fact that that exhibit shows that the capacity for explosive plants is 13,500 a month and not 5,500?

A No, I do not remember that.

Q Have you got the exhibit in front of you?

A I do not have the exhibit in front of me. I merely have have my affidavit.

Q Now, you testified that you could not gather from the capacities and exploitation of powder and gunpowder plants and an aggressive war was intended. Did you so testify?

A Yes.

Q And you also stated that you discussed the subject matter with Dr. Zahn of the Army Ordnance Office; is that right?

A I mentioned Dr. Zahn in this connection -- that is that shortly before the outbreak of the war, that is a few days before the outbreak of the war, we were at the Allendorf Plant and that Dr. Zahn told me at the time that there would be no war. If there would be any war, then the Army Ordnance Office would know something about it, but the Army Ordnance Office was not counting on a war.

Q Did he not tell you that the Army Ordnance Office was not counting on a major war?

A No, it was the general statement that there would be no war.

Q Now, from your knowledge of the figures on capacities and exploitation of powder and explosive plants, what kind of war were you able to gather that this preparation was for?

A I don't think that these preparations served any war at all but that they were connected with general military service and with the rearmament.

Q Did you know that the planning for production and capacities in the field of gunpowder and explosives and the

production was considered by Army Ordnance and by the people in the explosives field to be sufficient for a war against Poland but not for a major war against other powers; did you know that?

A No, I did not know that.

Q Did Dr. Zahn of Army Ordnance ever tell you that he figured that the capacities and production of gunpowder and explosives was sufficient for an enemy like Poland but not for a major war; did he tell you that?

A No, no.

Q Mr. Witness, with respect to your DAG affidavits which we identified as 13, I note that there are two affidavits -- one is DAG 13-1, which deals with explosives, that is the affidavit about which you were interrogated today and last Friday. Now, your other affidavit which is identified as DAG Document 13-2 deals with gunpowder as distinguished from explosives; is that correct?

A Yes.

Q Now, will you please direct your attention to your affidavit on the gunpowder figures, DAG-13-2.

A Yes.

Q Would it be a fair statement to say that you compiled your figures with respect to this exhibit on gunpowder in the same way and you used the same sources that you did when you compiled the figures in connection with the affidavit on explosives? Is that a fair statement?

A No, the figures were arrived at somewhat differently. On this matter, I asked our factory in Dueneberg and in connection with that I saw a man from the Special Committee for Powder. Also, I was in touch with the powder factory Rottweil in order to get those figures.

Q Now, when were you in touch with them to get those figures? Was that at the time when you made this affidavit, on December 15, 1947?

A No, that was somewhat earlier -- in the fall of 1947.

Q Now, will you tell me exactly what records you got from Rottweil, what records did you ask for and what records did you receive?

A I requested the annual powder production from Rottweil. Then I received a letter which gave those figures.

Q How about Dueneberg? Did you do the same thing with them?

A In the case of Dueneberg, it was similar, but I received a complete list from Dueneberg which was compiled in connection with a man from the Special Committee for Powder and which referred to all powder factories.

Q Now, when you wrote the people at Rottweil and Dueneberg--first, did you write to them or did you call them, asking for these figures?

A No, in both cases this was done in written form.

Q Have you got a copy of the letter you sent them?

A No.

Q Is a copy of that letter on file in the Dynamit AG office in Troisdorf?

A Copies are certainly with the files.

Q In Troisdorf?

A Yes, in Troisdorf.

Q And did you write to these people as an official of Dynamit AG, using the official stationery of Troisdorf, or did you use your own personal stationery and write in a personal capacity?

A Well, I no longer know. I assume that I used the official stationery.

DR. WEYER: I would like to object to the last question

because it does not have anything to do with the subject matter, as to what stationery he used or in what capacity he wrote. It is merely of interest to learn from where this information came or how the witness got the information.

MR. ALCHAN: It is entirely relevant to inquire whether the figures which this witness sets forth in his affidavit were gotten in connection with his official duties, as an official of Dynamit AG, or whether he personally--in anticipation of being a witness for the defense--went out on his personal initiative to secure evidence for the defense. Now, as to the value to be given to his figures, in our view it is necessary to pursue the inquiry in order to ascertain the nature of these figures, the source, and what materials were used upon which this witness made his tabulations.

THE COMMISSIONER: The record will reflect the objection and your explanation. You may proceed.

BY MR. ALCHAN:

Q You said you did not have a copy of the letter you sent to Dueneberg and Rottweil; is that right?

A Here I have no copy.

Q Now, the replies that you received, how many replies did you get?

A I received one answer from Rottweil and I received one answer--that is a chart in which the answer was mainly contained--from the Dueneberg Plant.

Q Do you recall just what the contents of your letter was, to Rottweil and Dueneberg? Just what kind of information did you ask them for?

A Well, I probably asked how high the powder production was from 1930 on until the end of the war, or from that period on when the production started and further I probably said--this is especially true for Dueneberg--that one should subdivide which are the firm--owned production, what the Reich-owned figures were, the DAG-owned, and what

would fall under other firms,

Q And when you received those replies, you incorporated that in your tabulation in affidavit DAG 13-2; is that right?

A That is right.

Q Did you make any independent check as to the accuracy of those figures, or did you just take their figures and put them in your affidavit?

A As I have described it this morning, when giving the example of the explosives, I had the opportunity as far as the figures of 1936 are concerned to check these with a tabulation made by the Reich Statistical Office and as far as the war years are concerned I was able to compare them with the figures which were discussed in the meeting mentioned above, of the Special Committee of Powder and Explosives. This meeting took place in March 1943.

Q Now, would you just direct your attention to the second column of your affidavit, DAG Document 13-2, where you give to the production figures for DAG and subsidiaries? You see that column?

A Yes.

Q Tell me what plants are included in those figures?

A Those are the Duenberg Plant—that is to say, the DAG-owned part of it—and the Rottweil Plant.

Q That is, all those included under that column "DAG and subsidiaries"?

A Yes.

Q Let us go to the next column. Incidentally, have you got the total figures for those two plants? Could you give me the total figures of that column? Well, we'll withdraw that. I will get to that later. Let's go to the second column where you deal with Montan and other Reich installations. Will you please list the plants that are included under that table, "Montan and other Reich installations."

A In this column, the following plants are included:

Dueneberg—that is, the DAC-owned part of it—Hualitz, Bromberg, Tretz —

Q A little slower, please.

A Forst was the last one, Blietz, Kreiburg, Liebenau, Oderberg, Torgelow, Bionki, Kampfeuren, Eichenhausen, Hirschweck.

Q That is thirteen plants; is that right?

A I count fourteen, but I will count it again. Fourteen.

Q Now, who owned these plants? Do you know?

A All these were Reich-owned plants.

Q Who operated these plants?

A These plants were operated partly by the Verwertchemie — pardon me. No. Pardon me. Partly by the DAC, then by the Verwertchemie, then Eibia.

Q How do you spell that?

A F-I-B-I-A.

Q Which plants were operated by Eibia?

A The Bualitz Plant, and the Liebenau Plant.

Q Okay, go ahead.

A And one plant, Bionki, was operated by the Masag.

Q And, now, of the fourteen plants that you listed, all but two were operated by Dynamit AG, Verwertchemie, and Masag?

A Pardon me, but I must add something. I forgot the main point. The Sprengchemie operated most of these plants.

Q Well, do you know whether—is that the Deutsche Sprengchemie that you are referring to?

A That is right.

Q Could you indicate which plants were Deutsche Sprengchemie?

A Tretz, Forst, Torgelow, Hirschweck belong to the Deutsche Sprengchemie.

Q Would this be a fair statement, Mr. Witness? Of the 14 plants which you listed, there are only two which were not operated by the DAG, or Verwertchemie, or Wasag, or Deutsche Spreng Chemie, is that right?

A That is right.

Q Now could you tell me of the total production listed under your column: Montan and Other Installations, how much represents the production of the two plants of Eibia?

A Under Others, there are Reinsdorf —

Q I am sorry, you misunderstood. Under the column of Montan and Other Installations, you just mentioned 14 plants, and we agreed that two of these plants, Bomlitz and Liebenau, were operated by the Eibia.

A That is right.

Q Now could you tell me the total production of Eibia which you have included under column Montan and Other Reich Installations?

A For example, in the year 1944 —

Q Mr. Schindler, I think it will be helpful if you can give me the total.

A Then I will have to add it up.

Q Would it be easier if you gave us the figures and we computed it with you?

A I get 121,000 tons.

Q I am not sure I understood you, Mr. Witness. In column 2 under Montan and Other Reich Installations, the total of that production is 679,600, and of that total, 121,000 represents the production of the two plants of Eibia, is that right?

A The 121,000 tons is the production of two factories of the Eibia.

Q Now will you go to the last column, under Others, and tell me which plants are included in that compilation?

A These are Reinsdorf, Blumsau and Sention.

Q Is that all?

A Yes.

Q Who owned these plants? Do you know?

A Reinsdorf is Wasag; Blumau is an Austrian factory. I think the title was Sprengstoff Werke Blumau. Finally, Sontien belonged to the Explosie.

Q Now those three plants were owned and operated by the firms you just mentioned, is that right?

A Yes.

Q Now could you tell me as to the total production of the plants Sontien, and Blumau, which are included under the column Others?

A That is 18,500.

Q Now then, with respect to this chart and your Document DAG 13/2, the gunpowder chart, am I correct in understanding that there are only four plants involved in the entire chart; the two which appear under the column dealing with Mortan, and the two appearing under the column Others. Those four plants are the only plants included in the chart which were not plants owned or operated by Dynamit A.G., the Verwertchemie, Wasag, and Deutsche Sprengchemie? Now is that right?

A Yes, that is right.

Q Now the total production of those four plants is 139,500, is that right?

A It is 140,000 approximately.

Q That is correct. I took your figure 121,000 and I took your figure of 18,500 and that adds up to 139,500. Now then am I correct then with that figure of 139,500 as the tonnage?

A Yes.

Q Of the production of these firms in the gunpowder fields according to your own figures, am I right?

A Yes.

Q Now then, will you turn to column 1 where you give the total of the production of gunpowder of 1930 to 1944, and is the correct total of that column 1,040,000?

A Yes.

Q Now will you tell me what the percentage is of the 139,500 to the 1,040,000?

A That is 13-1/2 per cent.

Q Do I correctly then understand your testimony to be that based on your own figures and your own chart as embodied in Document DAG-13/2, the total production of the firms other than Dynamit A.G., Verwertchemie, Wasag and the Deutsche Sprengchemie is 13-1/2 per cent? Do I correctly understand that to be your testimony?

A Yes.

Q Put the thing another way. Is it correct to say that based on your own figures, your own calculations, and your own tabulations as set out in Affidavit DAG-13/2, the DAG, the Verwertchemie, Wasag, and Deutsche Sprengchemie produced from 1930 to 1944, 86-1/2 per cent of all the gunpowder used in Germany, is that right?

A Yes.

Q No further questions, if Your Honor please. One more question, please. Are you familiar with the explosive firm, Wolff & Company?

A Not in detail.

Q Was that firm producing explosives from prior to the war?

A Wolff & Company? No.

Q Did they produce any explosives after the war?

A Wolff & Company? No.

Q Are you sure about it, or don't you know?

A Then I must say that I do not know.

Q That is all the questions we have.

REDIRECT EXAMINATION

BY DR. BOETTCHER:

Q If you would be kind enough and read this passage through once more, and tell me when you are through reading that passage so that I can ask you about it.

A Yes.

Q Just one moment, please. I shall mark this passage for the convenience of the prosecution. In the German text it is Volume 34, Page 233, and it has page 8 at the left. Now, Mr. Schindler, in this passage which I have shown there are the figures of the production capacity of 5,000 tons a month for powder and the capacity of explosives are given at 5,500 tons, and it says there that this capacity was achieved from 1934 to 1938. After that, there is another sentence which reads as follows, and I quote: "The actual production amounted considerably less than the nominal capacity of 2,000 tons a month of powder and 2,700 tons

a month of explosives estimated according to the production curves of the Gebechem 1939." Now I have to ask you the following question about this. When you mentioned the figures 5,000 and 5,500 respectively in your affidavit for the capacity, you were basing yourself on an estimate, isn't that right?

A Yes.

Q You also were basing yourself on this estimate for the year 1939?

A Yes, for the time of the beginning of the war.

Q Was there any basis for this estimate; namely, the fact that the actual production in this report was mentioned according to the production curves of the Gebechem for 1939?

A Yes.

Q So that according to your conviction, between the above-mentioned capacity of 1938 and the capacity of 1939 which you estimated at the beginning of the war, there is no essential difference?

A A difference of perhaps 15 to 20 per cent at most.

Q Thank you. Then I have another question. The prosecutor put to you from Prosecution Exhibit 1919 a sentence from your lecture about the processing of explosives. In this lecture, which was held in 1943, you pointed to the activity of the army ordinance office and to the Gebechem. Please explain how you meant this brief sentence at the time, and as you have already implied when you answered the prosecutor why you mentioned the army ordinance office in the first place?

A I mentioned the army ordinance office first because it belonged to the first place. My statements about the office Krauch were more than mere courtesy because representatives of the Office Krauch were present during this lecture, and after the office Krauch was also involved in the powder and explosives sector, one could not leave them unmentioned in this connection.

Q At any rate, these statements which you made at a representative

affair did not change anything in your testimony that actually the office Krauch had no initiative in the powder and explosives field?

A No, nothing to change this testimony.

MR. AMCHAN: I want to object to the question. It's leading and suggestive. This is redirect, and it appears that counsel is testifying and not the witness.

DR. BOETTCHER: No further question.

THE PRESIDENT: Do any other defense counsel wish to examine the witness?

BY DR. GATHER (For defendant Ambrose):

Q. Just a few questions about the relationship of the witness to the Defendant Ambrose. Witness, you said in reference to Ambrose that you met him in connection with the delivery of raw materials and intermediary products. That is in reference to the intermediary product hexamethylene tetramine and formaldehyde. First of all, I want to ask you, how did you happen to get in contact with Ambrose?

A. I got in contact with Ambrose not because of his capacity as Vorstand member of Farben, but because he was an expert in these two fields.

Q. You say in these two fields. Do I understand you correctly, that he was known as an expert in the field of preliminary product tetramine?

A. Yes, and especially in the field of formaldehyde.

Q. Is Formaldehyde particularly a preliminary product with a definitely military character or is it predominantly a preliminary product for civilian consumption?

A. Formaldehyde is a preliminary product very generally used. For example, it is employed widely in the plastics field, in the pharmaceutical field, and certainly in innumerable other fields.

Q. And how about the hexamethylene tetramine?

A. One could say the same thing about that. It is also used in plastics and in the pharmaceutical production, and surely it also has many other uses.

Q. Did your contact with Ambrose limit itself to this purely chemical and technical exchange of know how in the field of these preliminary products?

A. Yes. We wanted his technical advice in constructing new plants.

Q. Perhaps you would have got in touch with another expert if Ambrose would not have been an expert?

A. Certainly. That had nothing to do with it.

MR. AMCHAN: Objection. Object to it as being speculative.

THE COMMISSIONER: The objection will be noted.

BY DR. GATHER:

Q. Did the collaboration which is mentioned in the document which

was put to you during the examination, that is, NI-13525, and which refers to the experimental plant Elsnick, is this cooperation also just an occasional cooperation in clarifying questions which are connected with chemical and technical processes for preliminary products?

A. I would assume so, without being able to tell that for certain in this particular case.

Q. In other words, you cannot make any definite statements about this document from your own knowledge?

A. No.

Q. Do you know whether the developing steps which are mentioned here in reference to the experimental plants in Elsnick represent work in developing preliminary products? I am thinking of anhydrite which is an acetylene derivate.

A. It might be, but I cannot tell that from my own knowledge.

Q. Are you a chemist?

A. No.

DR. GATHER: No further questions.

THE COMMISSIONER: Any other defense counsel wish to question the witness?

BY DR. MEYER (for Dr. Gajewski):

Q. Mr. Schindler, the Prosecution, asked you, first of all, when you joined the Party. Do I remember correctly that it was in 1943?

A. I got into the Party in 1943.

Q. Was your membership dated as of that year or was it dated as of a previous year?

A. The date of entry was 1 January 1941.

Q. Did you go through a denazification procedure in the meantime, and if so, with what results?

A. I was denazified and I was exonerated.

Q. The Prosecution then asked you about your activity in Farben. That is before you transferred to the Rheinisch Westphaelische Sprengstoff Industry. When did you work for Farben and where?

A. I joined Farben in 1922 with the then Badische Anilin and Soda Plant. I remained there until 1929. Then I went to Wolfen-Filme to be trained there for a short time, and then I became chief engineer in the Agfa in Berlin.

Q. How long did you hold that position?

A. About four months. And then I joined the Rheinische Westphaelische Sprengstoff, A.G. in April, 1930.

Q. Did your joining the Rheinisch Westphaelische Sprengstoff, A.G. have anything particular to do with your activity in Sparte III, of Agfa?

A. No, I don't think so.

Q. Did Farben delegate you in any manner to the RWS or did you leave completely when you went there?

A. I left completely and I was newly employed by the RWS. For example, with a new salary which was fixed without any influence on the part of Farben.

Q. After you transferred to the RWS, did you have any relationship with Dr. Gajewski in the sense that you would have considered him, on business questions, as your superior in any way?

A. He was not my superior. That was the general director of RWS.

Q. Who was that?

A. Dr. Paul Mueller.

Q. Mr. Schindler, the Prosecution asked a number of questions which refer to your qualifications, that is, your qualifications to make out these two affidavits which are documents 12 and 13 in the DAG Document Book. I want to ask you once more. When did you give the RWS? That is, when did you join a concern of the Explosive Industry?

A. April 1930.

Q. Is it correct that in this concern, even after it was fused with Farben, you continued to work for them until the end of the war? That is to say, you worked for them for a period of 15 years?

A. Yes, that is correct.

Q. Is it also correct that during the war, you worked on the Special Committee for Powder and Explosives?

A. I was in the Main Committee for Powder and Explosives.

Q. The Prosecution asked you in this connection, in great detail, what documents you used for making up your affidavits for compiling your figures and how you obtained this information. Now, I want to ask you the following. Even without such detailed documents, were you able, on the basis of your long activity in an explosives factory, and on the basis of your work in the Main Committee, to know these figures in broad outlines from your own knowledge?

A. Not in such great detail and not so exactly, but I, of course, had a knowledge of the proportions and I could approximately give an estimate.

Q. If I understood you correctly, you would, on the basis of your knowledge and the documents which were sent to you, examine these?

A. Certainly, and if there were any mistakes in them which concerned the proportionate figures in all these charts I would have noticed them.

DR. WEYER: Mr. Commissioner, I would like to ask you whether this is a proper time for a recess.

THE COMMISSIONER: About how long will it be before you are through with the witness?

DR. WEYER: My colleague, Dr. Gierliche, will also have to ask some questions so I would assume that it will take at least another half hour.

THE COMMISSIONER: The Commission will recess for about twenty minutes.

(A short recess was taken.)

THE MARSHAL: The Commission is again in session.

THE COMMISSIONER: You may proceed with the examination of the witness.
BY DR. WEYER:

Q. Mr. Schindler, we were just talking about the first basic objection by the Prosecution to your affidavits, namely, the question of your expert knowledge. During your cross-examination the Prosecution made another basic objection to your Affidavits, namely, in relation to your lists of figures about explosives and powder concerning the entire German production, the subdivisions of which you listed under three separate columns. There you listed in 3 separate columns the DAG and its subsidiary firms; second, Montan and other Reich owned plants; and third, other plants. During the cross-examination you wanted to comment on why you listed the Montan plants separately.

May I ask you, first of all, to clarify for us what the Montan GmbH was?

A. The Montan was a Reich-owned company, and it had been destined that the factories built at the order of the Reich, not only those producing explosives and powder --

MR. ANCHAM: If your Honor please, the record is pretty full as to what the Montan plants are and how they were constructed. Now, it would serve no useful purpose to put in cumulative testimony and thus encumber the record. We took his classification, and everybody knows by this time just what the Montan plants are. If he wants to ask questions about their operational management, that is another thing, but to just go in and bring in, again, testimony in evidence which is abundantly in the record, I think is putting too much of a burden on the record, and I call that to the attention of the Tribunal.

DR. WEYER: I only put this one introductory question in order to get to the other questions which the prosecutor just mentioned.

THE COMMISSIONER: You may proceed.

BY DR. WEYER:

Q. Would you please reply?

A. The Mantan was the Reich-owned company which had been intended to build powder and explosive firms and also other chemical firms and also firms using metal in their production, which had been built at the order of the Reich, and the Mantan took over possession of all these plants.

Q. Do I understand you correctly then that the plants listed under Mantan belonged to the Reich and neither the companies which built these plants at the order of the Reich nor did they belong to the companies which later ran them?

A. The Mantan plants belonged to the Reich.

Q. Do you know about the agreements of the separate firms or about the standard agreements of the individual firms concerning the construction and the running of these enterprises.

A. Yes, I do.

Q. Do you know that the Army Ordnance Office reserved the right in every case for themselves, with out consideration of the firm carrying out the construction, to run the firm themselves?

A. Yes.

MR. MCHEN: It is objected to on the ground that it is cumulative. There already is in the record representative agreements of the Mantan and the operating agencies and the contents of these documents speak for themselves. If he wants to ask this witness about his personal experience, that is one thing; but to ask the witness of the substance of documents already in evidence is, I submit, improper and cumulative.

DR. WEYER: The question only served to introduce the next question.

BY DR. WEYER:

Q. MR. Schindler, do you know that this regulation of the Mantan agreement in some cases was carried out in practice?

A. Yes, in some cases it became practice; it was actually carried out.

Q. Can you tell me such a case? Do you happen to think of one?

A. For example, the lease of a part of the factory in Kaufbeuren to the firm Deutsche Waffen und Munition (German Weapons and Munitions), or the lease of a part of Kloeven to the firm Meissner.

Q. Thank you. That is enough. Therefore, how could one describe the attitude of the individual firms towards the Montan — that is, the Reich?

A. I can be described best by calling it a trusteeship relation.

Q. Do I understand you correctly to say that the firms concerned acted as trustees for the Reich?

A. Yes.

Q. Can you tell me whether, concerning such Reich-owned plants — for example, in the sphere of military explosives and military powders — whether particular secrecy regulations existed?

A. Yes, they existed.

Q. What was the result of these regulations about the information of third parties about this construction?

A. Third parties —

MR. AMCHAN: The objection is made on the ground that I respectfully submit this is not proper redirect. It does not relate to any subject matter covered in cross examination. It is new matter, contained neither in the affidavits, and does not relate to anything which the prosecution examined the witness about.

THE COMMISSIONER: It shouldn't —

DR. WEYER: In my opinion, the question is justified because the prosecution holds the opposite opinion, namely that the Montan plants also should be counted to the firms which built them and which ran them; and I am merely asking the witness about some points of view which contradict this opinion — which in our opinion is wrong.

MR. AMCHAN: I might state, for the record, that the opinion of

prosecution never is a subject upon which you can cross examine a witness or examine a witness unless the prosecution undertakes in the examination of the witness to elicit any facts with respect to that subject matter. And if the prosecution did not on cross examination touch that subject matter, then in our view it is not proper on redirect for the defense -- just because he feels the prosecution has another opinion -- to undertake to examine him on redirect in that field.

THE COMMISSIONER: The prosecution shouldn't bring out anything that is not in the affidavit, and the defense shouldn't bring out anything in redirect except what has been gone over by the prosecution. But the Commission does not rule on these things, and as your record stands. You may proceed, and the Tribunal will decide whether or not that is competent. by Dr. Weyer.

Q. Did the reasons mentioned before cause you to list the Menten Reich plants in a separate column?

A. Yes, the reasons mentioned and some other reasons.

Q. Would you please tell us these reasons?

A. May I look at my affidavit and refer to it?

A. My question, Mr. Schindler, refers to the affidavit No. 13-1 and -2.

Mr. Schindler, my question was whether apart from the reasons just mentioned you had any other reasons for listing Montan and other Reich-owned Companies in a separate column together, and put them in a different column to those of the DAG and other plants?

A Yes, there are other reasons and that is why I was looking for the affidavit. I just found it now. For example, the question of checking balances is also mentioned there, which in the Verwertchemie was handled in a different manner than in the other concerns of the DAG. The concern firms of the DAG were checked by the Chemie Revisions Und Treuhand GmbH while the Verwertchemie was checked by the Revisions und Treuhand GmbH, which was appointed by the Reich.

Q Are those the most important reasons?

A Yes, they are.

Q Thank you.

A I have just thought of another reason. It is the question of giving orders and of starting production. The DAG did not have the authority and I.G. Farben even less to start production in such a plant or to stop it, nor did the DAG have the authority of giving orders as they wanted to these Reich-owned plants. But the orders were very strictly distributed by the Army Ordinance Office to one particular factory in that case right from the beginning, and it would not have been the duty of the DAG, even if one factory had been able to produce the required amount in one plant, if the Army Ordinance Office thought that the production should be distributed among two or three factories. All these matters had to be accepted without criticism and carried out.

BY DR. GIERLICH:

Q Dr. Schindler, first of all I shall deal with your affidavit which is identified as Defense Exhibit 13/1. The prosecutor referred to the figures given by you there and he talked about them separately, and he finally reached the conclusion that eight per cent of the total originates from firms which had nothing to do with the Verwertchemie,

the Wasa, the DAG, or the Dynamit A.G. I would like to ask you, this percentage of eight per cent, which you have worked out, is it correct from the point of view of proportion in each individual year, or did it change considerably during the years?

A Certainly, each year there was a change in the proportions; for example, in the first years from 1930 onwards, the factory in Reinsdorf was the only one which produced military explosives; therefore, they carried 100 per cent of the production and other firms had no per cent at all.

Q I would like to discuss another example with you. In the year 1935, you mentioned the production of lynose carried out by a company outside this group, and you gave 5,000 tons as a figure there, and the total production of the other firms you gave as 10,380 tons in the last figure. That makes 68.5 per cent of the entire production. Do you agree with me in finding that these 5,000 tons constitute between 30 and 35 per cent of the total production?

A Yes, as far as 1935 is concerned.

Q As the next example, let us take the year 1936 where you calculated 6,520 as 31.8 per cent, and at the same time you give the production of lynose as 6,500 tons. Is it therefore correct that the share of this factory during that year therefore constituted about 30 per cent?

A 33 per cent to be quite correct.

Q In your opinion, is it justified to conclude from these statements that during the first years after the German rearmament, the share of these firms was much bigger than during the years during the war, and that the figure of eight per cent cannot be used as a basis for checking up on the question in how far the firms took part in preparation of the war—that is the activity during the years from 1934 until 1938 inclusively.

A Yes, I agree.

Q In order to be brief, I don't want to repeat all the figures

concerning powder, I merely want to ask you: the train of thought which I just discussed with you, can that be applied also to the field of power—that is, to your statements in your affidavit No. 13/2?

A Yes, it is approximately the same in the field of powder.

Q I would like to ask you, as far as you know were the technical and organizational relations between the firms of DAG, Wasag, Verwertchemie, and Sprengchemie—was their organizational and technical connection such that it can be justified that the production of plants which were looked after by those plants can be considered a unity?

A No, that is impossible.

Q Why is it impossible?

A Because Wasag and DAG had nothing to do with each other, apart from a loose exchange of experience in as far as technical matters were concerned in the civilian explosive field. We did not know what Wasag did in the military field, or the Sprengchemie at first, neither did they know what we did. Only during the war did one look into these matters more fully on both sides, but, of course, neither side could exercise any influence.

Q This knowledge which was gained later because of the war, was this due to the fact that owing to the cooperation of the industries concerned, in committees, etc., in all fields of the German economic line, not only concerning explosives, such an exchange took place in order to increase the general output or in order to secure the exchange of experience?

A Yes, that is exactly what I was trying to say.

Q Other reasons did not exist for this exchange?

A No.

Q Mr. Schindler, when being asked by the prosecutor, you talked about the shipment of mononitrotoluol from the production of I.G. Farben during 1937 and 1938 to the DAF and also about the shipment of pentaerythrite, as a preliminary product for nitropenta from

the Ludwigshafen Farben production, also during the years of 1937 and 1938, I would like to ask you: were the shipments of these preliminary products of any importance for the entire explosive production — because of their quantity — these preliminary products, insofar as I.G. Farben and Ludwigshafen in particular shipped them?

A No. I have already explained that mononitrotoluol was made by nearly all the TNT factories themselves and that pentaerythrite was mainly supplied by Reich-owned plants which the Army Ordnance Office had had built to supply the Reich-owned nitropenta plants.

Q The Prosecution also asked you whether civilian explosives which the Engineering Corps of the Wehrmacht used to fill hand grenades, etc., were included in your list under military or civilian explosives. I would now like to ask you; insofar as you know, is it generally the custom, when classifying such materials, to classify them according to their use instead of according to the consumer?

A The explosives for filling hand grenades were not listed by me as civilian explosives. I must add something to my previous testimony: I stated before that I did not consider these explosives at all but I did after all. I listed them among the filling places. The list is contained in the second part of the affidavit, that is, exhibit 13-1. Apart from that, it is usual that the explosives are listed according to the character, to the manner of their production and then to consider them as civilian explosives even if, as in some individual cases, they were used for fortifications.

Q Is it correct to draw the conclusion the other way around as well? In a certain connection the defense has submitted an affidavit in this case according to which hexogene was also used for civilian purposes when blowing up fields and other similar uses. In view of this fact of the occasional use of explosives which actually were military but were used for civilian purposes, did you list hexogene under military explosives?

A Hexogene is generally listed under military explosives.

Q Thank you.

A The same is true of Nitropenta. There was also some civilian use, but still nitropenta is listed exclusively under military explosives.

Q I now refer again to your affidavit which was designated as Defense exhibit 13-1. This morning you testified that you wished to explain the difference between the purely explosive production and the filling or the mixing, which you listed in two separate

columns, but you had no chance to give this explanation. May I ask you now to tell us about this difference once again, and to explain why, in your opinion, your second list is just as good and is, perhaps, even more justifiable as a basis for considering this material.

A The data in the list of the first affidavit, 13-1 are the pure unmixed explosives, which, during the war, were used only to a small percentage by the military. The filling of munitions consisted of mixtures of this military explosive and other materials, mainly ammonium nitrate. Only that mixture gives us the finished explosive and if one understands the production figures in this manner, then one gets considerably different percentages because under Montan and other Reich owned plants to so-called Munas, the state munition enterprises are listed. The state itself operated these through the so-called Feldzeugmeistererei. Apart from that, there was a number of independent private firms who operated such fillings plants.

Q I have one more question now. In order to judge the actual military preparedness, is it more decisive to consider the activity of the filling plants or the production of explosives as you listed them in the first list of your affidavit 13-1?

A In my opinion, the filling capacity is the decisive factor because only that produces ammunition ready for use.

Q Thank you. I have just one final question for you, Mr. Schindler. It concerns the freedom of decision of the firms which are involved here as constructors of plants or as operating firms for such production plants. You yourself told us that you worked in that field. Would you have had the possibility to reject orders which were given to you as part of this general program?

A We surely would not have had that possibility.

Q And why not?

A Because then they would have forced us to carry out the program, by making a change in the management.

Q Let me ask you in another way: Could these orders which were addressed to you or other firms active in that field be enforced on the basis of existing laws and regulations?

A Yes, that's my opinion. They were phrased in the form of an order.

Q And what would have happened if, particular, by during the war, you would have, refused to obey such orders or prevented them from being carried out or slowed them down?

A Then we would have been charged with undermining the military forces and we would have had to bear the consequences.

DR. GIERLICH: Thank you. I have no further questions.

RECROSS EXAMINATION

BY MR. AMCHAN:

Q Mr. Witness, this morning during the recess, and this afternoon during the recess, did you confer with defense counsel?

A No.

Q Did you talk to any of the defense counsel?

A Yes, briefly, but not about matters which have anything to do with this case.

Q Did you talk to Dr. Ehmann during the recess? Dr. Ehmann of the Army Ordnance Office?

A I talked to Dr. Ehmann about general matters.

Q You mean while in recess, when you were being cross-examined is it your testimony that you discussed with him general matters having nothing to do with your testimony or this case, is that your testimony?

A Yes.

Q You talked about personal matters?

A Not about personal matters, but generally about the fact that after all it wasn't a matter of certain percentages but that everything was done on the order of the state.

Q So, you discussed, did you not, your testimony and the interpretation of your testimony with Dr. Ehmann of the Army Ordnance office while you were in recess? Isn't that the fact?

A No, in my opinion, this has nothing to do with my testimony, it was a general conversation.

Q About the figures of production, etc?

A We did not talk about figures of production.

Q What kind of figures were you talking about?

A We did not discuss any figures.

Q What subject matter did you discuss?

A What I just described.

Q I didn't understand what you mentioned before. Will you repeat it?

A I talked with him about the fact that it was unimportant to list any percentages, that the important thing was that the whole matter was done by order of the Army Ordnance Office.

That was the general content of the conversation apart from personal matters.

Q This morning, did you also talk with Dr. Ritter about some of these matters? Dr. Ritter from Arauch's office.

A No, I didn't talk to Dr. Ritter.

Q Now, Dr. Boettcher asked you about exhibit 616, NI-10580. In order to be entirely correct as to what your testimony was, tell me whether or not the following paragraph from that exhibit is a paragraph about which you were testifying. I quote:

"The table and chart comprising Exhibit C show the progress of the actual expansion from 1933 to the end of the war. In the four years, 1934 to 1938, the powder production capacity had been increased to 5,000 tons per month and total explosives capacity to 13,500 tons per month, including about 5,500 tons of pure high explosives and 8,000 tons of extenders, principally ammonium nitrate. A fair amount of new construction was included in this increase. Actual production was appreciably below the nominal capacity, 2,000 tons per month powder, and 2,700 tons per month pure high explosives estimated in 1939 in the said production curves. By operation of this expanding capacity from 1933 to the beginning of the war, a stock of 187,000 tons of powder was accumulated."

My question to you, Mr. Witness, is: Is the paragraph that I just read from Exhibit 616 -- is that the paragraph about which you testified when Dr. Boettcher examined you on redirect examination?

A.- Yes.

Q.- And your affidavit was based on the figures in Exhibit 616 and the paragraph that I just read, is that correct?

A.- Yes.

Q.- Now, in connection with your testimony on document DAG-13-2, the gunpowder, I recall that under the column "Montan and other Reich Installations" you listed about fourteen plants; two of those plants, you said, were operated by Eibia, is that right?

A.- Eibia, yes.

Q.- Is it not a fact that Eibia is a 100 percent subsidiary of Wolff and Company?

A.- Yes, Eibia was a subsidiary of Wolff and Company.

Q.- And do you know that Wolff and Company was a subsidiary of I.G. Farben?

A.- I do not know in detail about the connections between I.G. Farben and Wolff. I knew there were some relations between I.G. and Wolff.

Q.- Now then, Dr. Gierlichs, on redirect examination, directed your attention to DAG document 13-1 and DAG document 13-2, and did I correctly understand your testimony to be that the percentages which you arrived at and testified to on cross-examination do not give a fair representation of the situation? Is that your testimony?

A.- Concerning explosives, a bill was made out, according to the individual years, as to the participation concerning lygnose, and it shows that the participation was from 30 to 35 percent. Concerning powder, I must say, now that I have my list in front of me, that a similar calculation cannot be carried out because in the first phases of the rearmament the powder production was carried on in Reinsdorf.

Q.- Mr. Witness, there will be no point in going through a percentage for each year listed in your compilations; you gave the total figure and the total percentages. I just ask you to make one more calculation. Now we will take the year immediately preceding the war, namely, the year 1938. I direct your attention to DAG document 13-1, the explosives exhibit. For the year 1938, first tell me which plants were not plants of DAG, Wasag, Verwertchemie, and Deutsche Sprengchemie. Tell me those which are not plants of the companies I named, which are included in the figures for 1938.

A.- 1938? There I must speak about one explosive at a time: Concerning TNT, Lygnose is to be named. Concerning hexogen, no such plant is to be named. Concerning nitropenta, there is no plant to be named either. Concerning picric acid, there is none, nor is there any concerning hexanitrodiphenylene.

Q.- Now, do I correctly understand that in your figures for the year 1938 on explosives, in DAG 13-1, the Lygnose plant is the only plant which is not DAG, Wasag, Verwertchemie, or Deutsche Sprengchemie, is that right?

A.- Yes.

Q.- Now give me the production figures for the plant -- the Lygnose Plant -- for the year 1938, which are contained in your compilation.

A.- Eight thousand four hundred tons.

Q.- Now the total production for 1938 is 48,030 tons, according to your figures, Right?

A.- Yes.

Q.- Now give me the percentage that the Lygnose firm production bears to the total production for 1938. What is the percentage?

A.- Seventeen point five percent.

Q.- Am I correct, then, in saying that for the year 1938 the explosives production, according to your own figures and your own tabulation, for Dynamit AG, Wasag, Verwertchemie, and Deutsche Sprengchemie, is 82.5 percent, is that right?

A.- Yes.

Q.- Now, will you turn to your exhibit 13-2, dealing with gunpowder? Take the year 1938, the year before the war. Now will you tell me which plants are included within the year 1938 which did not belong to Dynamit A.G., Wasag, Verwertchemie, and Deutsche Sprengchemie? Tell me which plants.

A.- There were no other plants.

Q.- Is it correct to say, then, that for the year 1938 the entire production of gunpowder -- as set forth in your own affidavit, DAG 13-2, the entire production came from the plants of Dynamit AG, Wasag, Verwertchemie, and Deutsche Sprengchemie, is that correct?

A.- If one adds Wolff and Eibis to this, yes.

Q.- If you add those two, then that is correct?

A.- Yes.

Q.- So that in 1938 the entire production of gunpowder in Germany, 100 percent production, came from the plants Dynamit A.G., Wasag, Verwertchemie, and you are including in that Wolff and Company and its subsidiary

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Eibia, is that right?

A.- Yes.

MR. AMCHAN: No further questions.

REDIRECT EXAMINATION

BY DR. GIERLICH:

Q. Mr. Schindler, does your statement which you just made during the recess examination, according to which no organizational and particularly technical organizational relation existed between the firms DAC, Wasag, Sprengchemie, Verwertchemie, which justifies the combining of these firms in one group, that is to say that this combination is arbitrary — does this also apply to the firm Wolff & Co. and Eibia to the same extent if not even more so.

A. Yes, this applies also to Wolff & Co. and the Eibia.

DR. GIERLICH: Thank you. No further questions.

MR. ANCHAM: We have no further questions of this witness, if your Honors please. I might refer to the schedule for tomorrow since the examination of this witness took a little more time than we had anticipated. The witnesses who were scheduled to appear this afternoon, I suggest, be called first thing tomorrow morning at 10 a.m. — namely, the first witness will be Goldschmidt, the second witness Reithinger, and the third witness Sprati. I would suggest, if agreeable to the defense the witness Schmidt who is scheduled for tomorrow morning be put over until tomorrow afternoon at 1.30 so that he doesn't have to wait around all morning.

DR. GIERLICH: I am not able to make a statement for my colleagues in so far as the postponement of the examination of the witness Schmidt is concerned, but I agree to it, and I believe that my colleagues hold the same opinion.

Mr. Commissioner, I take the liberty of asking another question. Would it not be possible to start the examinations at 9 a.m. instead of 10 a.m. and if necessary to continue them to the same hour when the Court recesses. Because of the preparation of rebuttal material, the defense has a lot of work to do. Preparations are being made for absence during the weekend. Therefore, it would be greatly in the interest of enabling us to do our work if, by starting at 9 a.m. and continuing longer at night,

we could make sure that the witnesses planned for tomorrow might all be finished tomorrow.

MR. AMCHAN: We have alerted our staff according to the schedule and with the late hour it would be very difficult for us to rearrange the schedule. As far as the burdens the defense has in preparation, they are very mild compared with the burdens the prosecution has in preparation. I would suggest to Your Honor that we maintain our usual schedule. There are no unusual circumstances calling for a change just now, and I would suggest we keep this as we have been up to now, but I leave it to Your Honor's judgment.

THE COMMISSIONER: Since we have been planning on tomorrow at 10, we will make tomorrow at 10; but I do think we should begin about 9:30 hereafter. If we begin at 9, it doesn't give the defendants who want to come down time to get excused from the other Court and we could hardly start at 9 but I do think 9:30 will be a good hour.

MR. AMCHAN: We will be glad to, when we have a heavy schedule, but the schedule so far hasn't required it.

THE COMMISSIONER: But this week we will keep to the 10 o'clock schedule and next week we will try to start at 9:30. If there is nothing else, the Commission will stand adjourned until tomorrow morning at 10 o'clock.

(The Commission adjourned until 29 April 1948, at 1000 hours.)

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

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Volume 36, p. 12,778-13,133

Apr. 29-30, 1948

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

OFFICIAL RECORD

UNITED STATES MILITARY TRIBUNALS NURNBERG

CASE No. 6 TRIBUNAL VI

U.S. vs CARL KRAUCH et al

VOLUME 36

TRANSCRIPTS

(English)

29-30 April 1948 pp. 12778-13133

Official Transcript of Military Tribunal
VI, Case VI, in the matter of the United
States of America, against Karl Krauch, et
al, defendants, sitting at Nurnberg, Ger-
many, on April 29, 1948, Justice Shaker
presiding.

THE MARSHAL: Persons in the Courtroom will please find their
seats.

The Honorable the Judges of Military Tribunal VI.

Military Tribunal VI is now in session. God save the United States
of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Any announcements from defense counsel?

DR. BORHEMANN: The examination of the Witness Goldschmidt be-
fore the Commissioner did not take place yesterday. It has been post-
poned until 10 o'clock this morning. Therefore, I should like to
ask that the Defendant Mann be excused after 10 O'clock in order that
he may attend the Commissioner's hearings.

DR. ASCHENBAUMER: There were a number of postponements in the
Commissioner's hearings. For that reason I ask that the Defendant
Gattineau be excused from this morning's, this afternoon's, and
tomorrow morning's sessions in order that he may attend the Commis-
sioner's hearings.

THE PRESIDENT: Both of those requests are granted.

Anything further from the Defense? Anything from the Prosecution
before we resume the cross-examination? Then, you may proceed, Counsel,
with the cross-examination.

WITNESS HANS KUGLER - Resumed
CROSS - EXAMINATION - Continued

BY MR. NEWMAN:

Q. Before the recess yesterday we spoke of Dr. Kramer's activi-
ties in Paris after the Wiesbaden meeting. In this connection I ask
you: Is it now true that you personally expressly approved of Dr.
Kramer's efforts in restricting the business activity of the French
plants before the Francolor Agreement?

A. I can answer this neither in the affirmative nor in the negative, if you put this question to me in that general form. I should be grateful to you if you could give me an indication as to how I am supposed to have approved or supported Dr. Kramer's efforts.

Q. By just writing him to the effect that you fully approved of his steps taken in the interim period between Wiesbaden and the beginning of 1939, or rather 1941.

A. During direct examination yesterday I made some detailed statements with respect to the beginning of French production. I stated under what aspects Farben considered the situation in France, at the time. I have also admitted that, and this is how I expressed it: We worried unnecessarily in many respects.

Q. My question was just whether you recall that you expressly approved of Kramer's steps in restricting the French plants after Wiesbaden; and I shall introduce, in this connection, NI —

THE PRESIDENT: Just a moment. Now, let's find out what the witness says about it. Now, do you mean, Counsel, by letter or by written statement he expressly approved the matter?

MR. NEWMAN: That's right; and the answer of the defendant was not clearly affirmed.

THE PRESIDENT: Very well. Now, let's see if we can get it clear and thus perhaps save some time.

BY THE PRESIDENT:

Q. Do you recall, Mr. Witness, whether you did or did not expressly approve the matter in some written document, the matter about which counsel has asked you?

A. In the general way in which the question is put to me by the Prosecutor I really cannot remember.

Q. Very well; that's an answer.

THE PRESIDENT: Now, you may introduce your document.

MR. NEWMAN: Now, I introduce NI-15238, which will become our Exhibit 2147, which is your letter to Dr. Kramer.

THE PRESIDENT: Now, Counsel, there really is no necessity of pursuing the matter further. You have the answer of the witness that he does not remember. If the document shows that he did, it speaks for itself, and that's the close of the issue on that score, unless there is redirect examination.

MR. NEWMAN: Very well, Mr. President, I just wanted to identify the document; I have no further questions.

THE PRESIDENT: Very well.

BY MR. NEWMAN:

Q. In your direct examination yesterday you stated that no actual pressure was exercised on the other party, and that Farben did not intend any such pressure. Now, is it not true that Farben agreed on using pressure even against the French Collaborationist Government in Vichy, in order to procure its consent for Farben majority participation in Francolor?

THE PRESIDENT: Now, Counsel, if you can make your question a little more direct. You say, "if you don't agree." You do not say whether or not you refer to some oral conversation, to some written document, or in fact to what he may not have agreed. If you put the question direct to him we will permit you to have an answer, and then you can follow your own course with reference to supplemental proof.

BY MR. NEWMAN:

Q. Is it not true that Dr. Kramer advised you, in March 1941, that the Vichy Government is opposed to Farben's 51% participation in Francolor, and that, therefore, Kramer felt it necessary, before reopening negotiations, to put the French Government under pressure, and that he so advised you?

A. I knew that the Vichy Government was opposed to 51%.

THE PRESIDENT: The question is whether or not you were advised by the party named in the question to that effect.

A. That I don't remember.

BY MR. NEWMAN:

Q. Then, I introduce a file note on a telephone conversation with Dr. Kramer, initialed "Dr. Kuemper," of March 5, 1941, which was taken from your Griesheim files NL 15223, which may go in as our Exhibit 2148.

Now, turning to the Preamble of the Francolor Convention (The Francolor Convention is our Exhibit 1255, our Document Book 58, English Page 35, which is Page 41 of the German), where you were, at the time, led by this Preamble. The French side wished to make clear that it had entered into the Francolor Agreement under pressure.

A. We did not understand this Preamble in this way. The Preamble was drafted by the Frenchmen. We don't consider this Preamble to mean that the contract was concluded under pressure. We could not do that on our part because we never had the feeling that we exercised the pressure as it was alleged by the Prosecution. On the other hand we found it quite understandable that the Frenchmen, with respect to a contract which was to last for 99 years, had been subjected to the pressure of the conditions, as it were. They wanted to set down the background and preliminary history of this contract in that Preamble. During one of your interrogations in May, or at the end of April, I stated that we didn't like the Preamble very much, but, on the other hand, we could understand the feelings expressed by the Frenchmen, and we, therefore, agreed to the Preamble in the way it was phrased. Had we exercised pressure beforehand and had we considered that contract as having been drafted under pressure, then we probably would have been opposed to having the unfair attitude confirmed in the Preamble; and then we probably wouldn't have signed it.

Q. Now, did you or your representatives in Paris consider this Preamble as a means for the French to avoid or cancel the Francolor Conventions when circumstances changed?

A. I can't remember any such considerations at the moment.

Q. Was it not Farben's plan to apply to Dr. Michel of the German

Military Government in France and to ask him to have the Preamble stricken from the draft of the Francolor Conventions on the pretense that the German Government considered such Preamble undesirable?

A. I can't remember that particular event, but I do think that it is possible that this matter was discussed with the Government representatives in those days. In signing this Preamble we assumed a certain — let's say — responsibility towards the Government.

Q. Yes. As to the last three question I introduced NI-15219. This is Dr. Kuopper's memorandum, addressed, among others, to Defendant Eugler, of June 13, 1941, which will become our Exhibit 2149; and also NI-15218, again Dr. Kuopper's memorandum to von Schnitzler, Ter Meer, Eugler and others, of July 1, 1941, which will become our Exhibit 2150. In the last exhibit I particularly refer to the second paragraph.

Now, you testified in connection with the newly acquired Polish and Alsatian plants that Mr. Eckert worked under the supervision of Dr. Kuopper, and, as you put it, immediately and directly under Dr. Von Schnitzler. My question is: Is it not true that with respect to all newly acquired dyestuffs plants in conquered Europe, including the Polish and Alsatian plants, Eckert worked under your direct supervision?

A. Mr. Newman, I believe that I have explained the matter correctly yesterday. The Alsatian firms had a special settlement in that respect. In the Prosecution documents themselves we find a certain indication as to how these matters were settled. Would you give me one minute, and I shall find the reference for you. For example, I refer to Exhibit 1147, NI-8385, Book 55, Page 79 of the English version. That is a circular of Dr. Kuopper which was distributed internally, during a certain phase of the Polish negotiations. You will find the internal distribution list there, which is typical of the settlement as was the case at the time. There you will not find my name, and you will find that true also in other files concerning Alsatian and Polish negotiations. I was never addressed with respect to these matters, and Mr. Eckert

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attached considerable value to see that the arrangement which had been made at the end of 1939 would actually be adhered to. I did not interfere with these on my own initiative because I had much more to do.

is that you assume that he did testify to that. You have a right to do that ordinarily in cross-examination; but when you are approaching the problem from this standpoint it just provokes a long answer or a long explanation that is time consuming. Will you ask your question and inquire whether or not he agrees with you that he did so testify; If he does not, you have the record.

MR. NEWMAN: I will ask the question right now.

THE PRESIDENT: Yes.

BY MR. NEWMAN:

Q. Is it now true that before Farben acquired title to the plants, namely, in October 1938, that you contemplated the production of Hexachloroethane and other raw materials in the Aussig-Falkenau plants?

A. Would you please repeat the question? I didn't quite understand it. Aren't you referring to the time before 1939?

Q. Isn't it true that you contemplated the production of Hexachloroethane and other raw materials in the Aussig-Falkenau plants before Farben had even acquired title to the plants, namely, in October 1938?

A. When I began my service at Aussig representatives from various Reich agencies soon visited me, particularly people from the Four-Year Plan, in order to inspect the plant. At that time a number of gentlemen voiced opinions as to whether this or the other could be done. Throughout the time of my Commissar activity, and this is entirely in accordance with what I testified, I constructed no factories and I invested not one Pfennig for any such production. The only products that were continued were the products which were already in existence before. I assume that you refer to a statement I gave in 1945?

Q. No, I did not. Did you take the position in October 1938 that because of the favorable location the plants at Aussig and Falkenau were predestined for transformation of their manufacture along lines of interest to military economy and in keeping with the purposes of the Four-Year Plan?

A. That might be. It might have been written down at that time. I don't remember it now.

Q. Now, then, we introduce HI-15077, which will go in as our Exhibit 2152. This is a letter signed by the two Commissioners Hugler and Brunner, of October 26, 1936, to the Reich Ministry of Economics. I particularly refer to No. 3 of the first enclosure attached to this letter. And I have no further questions.

MR. SPEER: Mr. President, I have only one or possibly two questions.

THE PRESIDENT: Very well.

MR. SPEER: I shall have to have two in view of your recent instruction which I intend to obey.

THE PRESIDENT: Well, that's no iron-clad instruction, General; we were just trying to save a little time by avoiding long answers if we could.

MR. SPEER: Yes.

CROSS EXAMINATION (Continued)

BY MR. SPEER:

Q. Mr. Ressler, as I understood you, you testified that you were not present in the middle of May 1938 when Seidemann had this conference in Berlin along with Frank-Wille and some other persons from HI-7. Is that correct?

A. Yes.

Q. And that later on you reproached both Frank-Fehle and Seeborn for holding a conference on this matter without your knowledge, is that correct?

A. Yes.

Q. Now, when did you reproach both Frank-Fehle and Seeborn?

A. I can't fix the date. I assume that I voiced my displeasure about that meeting toward Frank-Fehle on the occasion of the Commercial Committee meeting which took place approximately on 25 May, I think. Whether I telephoned Mr. Seeborn from Frankfurt or whether I discussed it with him when I came to Reichenberg next time I can't say today.

Q. No further questions.

THE PRESIDENT: Does that conclude the cross-examination of the witness?

MR. SPRECHER: Yes, Mr. President.

THE PRESIDENT: Does counsel for this defendant desire to interrogate him further with reference to the matters gone into by the prosecution?

DR. HENZE: Your Honors, we have received a number of documents and have not yet been in a position to study them all and I have not been in a position to prepare the relevant questions. For that reason I should like for your permission to postpone the examination of my client a little while.

THE PRESIDENT: Would you be able to indicate, counsel, approximately how much time you will need to familiarize yourself with the contents of these documents so that we can conclude this examination as promptly as possible?

DR. HENZE: I believe that we shall not have many questions. I think that we shall need about twenty minutes.

THE PRESIDENT: Very well. Perhaps we can go along with the case and at the first break that we have in the routine after you have examined the documents, we can recall this defendant to the stand and conclude this matter. Are there any other questions from other defense counsel?

before we excuse this witness temporarily? Apparently not, Mr. Defendant, you may stop aside and we will move to the next matter. Now, counsel, except for your re-direct examination does this conclude your presentation on behalf of your defendant?

DR. HENZE: The examination has been concluded, Your Honors. I asked for a witness who has been approved by the Tribunal but who unfortunately has not yet arrived in Nurnberg. He resides in Austria and up to this time he has not been able to cross the border. If I should succeed in getting him here I ask for permission to call him in the course of next week.

THE PRESIDENT: Very well. It may be necessary, in view of the situation, we are in, to ask you to take the witness to the commissioner, if you succeed in getting him here. But we will meet that problem if it arises. Dr. Pribilla, we may have to ask you to wait just a few minutes until we get our document books. We will send for them right now. Are we correct that what you want are Books 3 and 4?

DR. PRIBILLA: And 5 Your honors, the small appendix.

THE PRESIDENT: They will be here presently. We will not hold you up very long.

Dr. Pribilla, we have your Books 3 and 4. 5 has not been delivered but we are sending a note out for it now and perhaps you can get along until it comes. It should be here this forenoon. Can you use three and four in the meantime?

DR. PRIBILLA: Your Honors, fortunately I have a few copies of Book 5 in English. I could loan them to the Tribunal. Five is the supplemental volume which is still missing from the first part of my submission and I really would ordinarily have to start with Book 5.

THE PRESIDENT: If you could spare us two copies so that we could use them until ours come and then we shall return them to you. We have your supplemental book now so we are ready to hear you.

DR. PRIBILLA: Your Honors, I shall now commence the second part of the presentation of evidence on behalf of the defendant Prof. Lautenschlaeger. I have already dealt with the subject matter of the Marburg

Plent (Merburger Werke). A number of documents are still to be submitted in that connection. I first refer to Book 3, page 3. That is document 36. I already submitted that for identification and I shall now submit it properly into evidence, the book being available. It will become Lautenschlaeger Exhibit Number 1. From Book 4, Page 3, I should like to submit Lautenschlaeger Document Number 54. It was already submitted for identification when it received Exhibit Number 5. I shall now offer it properly into evidence.

From the annex, Document Book 5, I should like to submit the first document, an excerpt from the official transcript of the American Military Tribunal Number I, Nuernberg, Lautenschlaeger Document Number 70. At the time it was assigned Exhibit Number 7 for identification. I offer it now properly into evidence. The Tribunal may remember that at that time I already quoted the relevant passages.

MR. SPRECHER: Mr. President, shouldn't that remain for identification as a matter for your judicial notice. I mean not that I am a stickler for --

THE PRESIDENT: Counsel, I think that is true so far as the judgment is concerned. The judgment is available without there being a document, but that perhaps is not true so far as bringing before this Tribunal the evidence of proceedings of the IMT. We understand, Dr. Pribilla, that that is your Exhibit 7 now?

DR. PRIBILLA: Yes, Your Honors.

THE PRESIDENT: Very well.

DR. PRIBILLA: From the same book I shall submit the next document, Lautenschlaeger Number 71. It will now finally receive Exhibit Number 8. The Tribunal may also remember that document which played some part during the examination of Dr. Demnitz. This is the report on the concluded typhus experiments which, on 5 May 1942, was sent from Mrugowsky's office to the Behringwerke among others.

I have received the next document subsequently, which is Document 68 in Book 5. It is to receive Exhibit Number 39. This is a statement of the Rector of the Philipps University, Marburg, with regard to Professor Leutenschlaeger.

I shall now present Book 3. On page 1, the first document is not being submitted. It deals with an insignificant subject.

THE PRESIDENT: You mean your Document 35, I assume.

DR. FRIBILL: Yes, Your Honors. The next document is already in evidence. On page 7 there is Document Leutenschlaeger Number 37 which will receive Exhibit Number 40. It is an affidavit of the affiant, Dr. Julius Weber. From his own knowledge he discusses the foreign worker question. Particularly he discusses medical care which Professor Leutenschlaeger gave the foreign workers.

The next document on page 10 brings us to the actual medical questions of the Hoechst Plant. The Tribunal will remember that in the prosecution's submission of evidence the typhus medicinal drugs of the Hoechst Plants have played a decisive role. In this Document Number 38, which is to receive Exhibit Number 41, the beginning of the clinical testing of the Hoechst medical drugs is shown. I beg your pardon, Your Honors. I have made a mistake. There is one document to be submitted before that. I apologize. Leutenschlaeger Number 38, will become Exhibit 41 and this is a copy of the Ministerial Gazette for the Prussian Interior Administration. It refers to the fact that in Germany, according to legal provisions, medical drugs, before their wholesale application, must be tested on human beings in public hospitals.

Then we come to Leutenschlaeger Document Number 39 on page 12 which will bear Exhibit Number 42. What I said before applies to that document. This document shows the beginning of the clinical test of a medicinal drug produced by the Hoechst Plant. I am referring to the typhus drug 3582. This is a so-called expose. This leaflet was handed for information and observation to the persons testing the preparation. It

contains a full description of the composition and structure of the preparation, of the result of experiments on animals, directives for the application to human beings, and experience gained in the application on persons suffering from typhus and other diseases. The last page of this document contains a graphic chart showing the application of the preparation on medical experiments on animals. It shows that the mortality of mice infected with typhus which were not treated amounts to 91.6 percent. In the case of mice treated with the preparation 3582, the mortality amounted to only 4.8 percent. Let me point out in particular that this leaflet starts with a very serious and important sentence. I quote: "Chemo-therapeutical remedies for genuine typhus of any specific efficacy are unknown up to now." The leaflet goes on to show in detail and very conscientiously what tests have been made in the laboratory during experiments on animals, and on page 16 it arrives at the result, and I quote: "In view of the many chemo-therapeutical experiments in connection with experimental typhus, which have up to now nearly always proved negative, this success justifies a clinical experiment on the use of the preparation in the application of this drug and of this method have proven successful in cases of genuine typhus." On page 21 I now turn to Leutenschlaeger Document Number 40 which will bear Exhibit Number 43. The prosecution again and again has asserted that the application of this medical drug was never justifiable. For that reason this and the following documents represent an excerpt from the large mass of experience and of reports and experiments made by the Hoechst Plant at that time with respect to this preparation. This statement applies to Documents 40 up to and including 48. The index may be of help in that connection because these are rather technical and difficult reports. These are reports by physicians who tested the drugs — the preparations — in their clinics. These are experiences and evaluations, which were made at the Hoechst Plant on the basis of reports by the practicing physicians. The first document, Number 40,

Exhibit 43 shows tests by Professor Dr. Lehmann-Facius.

On page 23 there follows Document Number 41 bearing Exhibit Number 44. This is an experience report by the examiner Dr. Buergel.

On page 24 there is Document Number 42, Exhibit 45. This is a report by the testing physician, Dr. Hans Bruno Sauter.

On page 25, Document Number 43 Exhibit 46, there is a test report by A Professor Dr. Holler, Vienna.

On page 38, Document #44, Exhibit 47, there are also reports by Professor Dr. Holler, Vienna. On page 42, Document #45, Exhibit 48, there are further experience reports by the testing physician, Professor Dr. Lehmann-Facius, Frankfurt.

At page 45, we have Document #45, Exhibit 49. This is testing physician "Goorarzt" Dr. Michl, Munich.

On page 47 there is Document #47, Exhibit 50. This is the testing physician Dr. Nonnenbruch.

On page 48, Document 48, Exhibit 51, is a report by the testing Professor Sylla, Halle.

On page 50 we have Document #49 which is to bear Exhibit #52. This is a scientific publication by the already mentioned Professor Dr. Holler of the periodical "Medizinische Klinik" #17 of 1944. I shall quote briefly from page 50. Let me state first of all that this publication was not only written by Professor Holler but also by his assistant physician Professor Zajitschok. This publication plays a considerable part and I shall revert to it later. Here again it is stated in the first sentence: "In the pertinent literature, various remedies and methods have been commended as efficient in cases of typhus. However, none of them has been able to assert itself as really successful." Page 51, paragraph 5, states: "after a thorough re-check, we recommend this typhus therapy, developed by us successfully as shown above, for general use, because we have gained the impression that we have now a remedy available - particularly in the shape of Nitroacridin 3582 - by which we are able to overcome even serious cases of the disease, if it is applied in the proper way."

On page 53 we have a document #50. This is to have Exhibit #53. Professor Holler, Vienna, who is one of the foremost researchers of typhus, has submitted an affidavit

for the use of these proceedings. The affidavit confirms everything which has been stated before with respect to the favorable experiences with drug 3582. Professor Holler attached five Scientific Dissertations to his affidavit. These papers were not mimeographed by me. I have confined myself, on pages 55 and 56, to listing the titles as well as the authors and thereby bring them to the attention of the Tribunal. All these papers are rather lengthy and complicated and I thought that it would suffice if I only listed the names of the titles. Naturally, and interested party can always look up the various publications. At the bottom of page 53, and on page 54 we find that this expert scientist has studied the minutes of the interrogation of the examination of Professor Butenandt who appeared before this Tribunal on behalf of the defendant Hoerlein. He states that the definitions of the terms which are subject to argument here, are made by him in the same way as Professor Butenandt did when testifying before the Tribunal. I think that his statement is important and significant not only because two scientists hold the same opinion, but also because I believe that these strict definitions shall be helpful to us for the further proceedings in this case.

On page 57 we have an affidavit of a Dr. Aloys Auer which is to be Lautenschlaeger Document #51 to bear Exhibit #54.

THE PRESIDENT: I believe we got the reverse of your numbers. It's Document 51 and has Exhibit 54, is that correct?

DR. PRIBILLA: Yes, that is correct. It is on page 57. Whereas the last mentioned documents scientific statements, scientific statements by testing experts who have already tested the preparation at the time, this affidavit is a personal statement drawn up as a result of a close personal observation of Professor Lautenschlaeger. Dr. Auer is the

Chief Physician and Director of the Medical Clinic of the Municipal Hospital Frankfurt/Main - Hoechst. That, as it is known was Professor Lautenschlaeger's residence with the dye stuffs plants. Therefore, there was a particularly close collaboration between these two gentlemen and Dr. Auer emphasizes that since having taken over the Municipal Hospital in Hoechst in 1924, until 1945, he was constantly collaborating with Professor Lautenschlaeger. The clinical tests of such preparations were started with particular care by Professor Lautenschlaeger and the Hoechst plant.

DR. BERNDT: Your Honor, may I state the following matter to the Tribunal. Before the Commissioner the witness Dr. Goldschmidt was to be heard yesterday. It couldn't take place because the witness had to be interrogated yesterday afternoon. The meeting was postponed until 10:00 o'clock this morning. There is no other witness whom we could take before. The matter could not be continued because Mr. Minskoff cannot appear before the Commissioner, but has to be here. Would you please decide what we are to do because this afternoon I, in turn, cannot appear before the Commissioner because the Francolor case is to be heard before this Tribunal. As far as I know, this morning only documents will be presented.

THE PRESIDENT: We'll hear what Mr. Minskoff or counsel for the prosecution has to say about this dilemma.

MR. SPEECHER: Mr. Minskoff can go over. I think there's been some misunderstanding.

THE PRESIDENT: Explain that to Dr. Berndt. Perhaps that will solve the problem. Just a moment. Let's make sure we have the problem solved before we proceed. We understand that Mr. Minskoff is available for your examination, Dr. Berndt. Does that solve your problem now?

DR. BERNDT: Thank you very much. It does.

THE PRESIDENT: I wish all problems were so easily solved.
Proceed, Dr. Pribilla.

DR. PRIBILLA: Your Honor, I shall now continue with
the presentation of Document #51, Exhibit 54.

The Chief Physician of the Hoechst hospital who, naturally
closely collaborated with the Hoechst plant, reports here
from his experiences. He says what he knows about clinical
tests of Hoechst drugs. He states that the Hoechst plant and
Professor Lautenschlaeger carried out the clinical tests
of these preparations with particular care. At the bottom
of page 57 he says, and I quote: "The physician who
conscientiously adhered to these directives could not harm
his patients." On page 58 he says, second paragraph: "In
more than twenty years of our mutual collaboration I have
tested approximately 100 new preparations of Hoechst. At
no time was there any serious incident with my patients in
connection therewith. For the clinical tests the responsibility
lies solely with the physician; he conscientiously selects
the patients, according to indications, to whom the new pre-
parations are to be applied. In that connection, it is not
customary to secure the express consent of the patients to
this, no matter what class they are treated in, for the
physician's objective judgment of the efficacy is often
impaired by telling the patient of a preparation which is
being tested. On the other hand, I have repeatedly called
the patients' attention to the application of new prepara-
tions without ever encountering any objections from them,
especially when the pharmaceuticals to be tested came from
well-known industrial laboratories, as, for instance, the I.G.
Farben Industry."

"4. The compatibility of a pharmaceutical compound differs
greatly individually."

Dr. Auer then goes on to cite a number of examples to show that even in the case of the most conscientious application of tested drugs, a certain number of interferences with the well-being of the patient can come about. He refers to drugs such as Strophantine. At the end of paragraph 4 he states: "In spite of all this, no physician conscious of his responsibility can forego any of the medicinal drugs to which I could still add a great number - because the curative results far outweigh the drawbacks."

Paragraph 5: "These considerations also apply to the Nitroacridine preparation 3582. I personally have tested the Balkanol preparation from the Nitroacridine series, and have never experienced a serious incident in this connection."

I skip a sentence and continue: "I can confirm the decision of those physicians who tested the compound in the treatment of typhus. As a result of the careful preparation in the laboratory it could not cause any danger to life, nor a serious impairment to health. Aside from a passing indisposition, like headache, stomachache, dizziness, vomiting, etc., there is a greater prospect of tuning down the course of the disease, and even of a cure, which could only mean - in view of the helplessness of therapeutics for typhus - a valuable gain for medical science and for the progress of the patients."

On page 60, Dr. Auer reports on his personal experience with Professor Lautenschlaeger, second sentence of paragraph 6: "Throughout all the years of our collaboration I have known Professor Lautenschlaeger to be a physician of the highest character and ethics, to whom healing and helping meant life itself. I know from my own experience in connection with the test of new medical preparations coming from Hoechst and through my numerous scientific discussions with him that he was exaggeratedly conscientious. It was especially important for him to insure that no patient was endangered in the least through drug tests or through secondary reactions. This attitude became so natural that all his co-workers and the examiners who currently worked with him, insisted on this very factor."

On page 62 we have Lautenschlaeger Document #52, Exhibit 55. This is an affidavit of Medical Prof. Dr. Otto Schaumann, Innsbruck, Austria. Mr. Schaumann, from 1925 until 1945, was the head of the Pharmacological Laboratory of the Hoechst plant. He is an Austrian and is now the head of the pharmacognostic institute of the Innsbruck University. During the twenty years of his activities, Professor Lautenschlaeger was his immediate superior. On page 63 he makes some statements about the testing of Hoechst preparations: "A new preparation was only released for clinical testing when, after thorough experiments on animals, it had been ascertained that no danger could possibly arise in connection with application on human beings. I do not recollect a single case in which a patient ever suffered lasting physical harm in the course of the clinical testing. It was a matter of principle to select only those preparations for clinical testing which promised to furnish an advantage in the interest of the patients which had not been obtained yet in the past."

Professor Schaumann then gives us two examples which tend to show the particular conscientiousness of Professor Lautenschlaeger. Particularly interesting is the matter treated at the bottom of page 64 about which Pro-

fessor Schaumann reports as follows: "The following incident may perhaps be especially apt to characterize Professor Lautenschlaeger's humane way of thinking. At the end of the war, the Luftwaffe made to him a suggestion to develop or to suggest a preparation able to increase the will of the pilots to fight by eliminating mental inhibitions. During a discussion how one could best keep out of it, Professor Lautenschlaeger said that in his opinion it would be absolutely abhorrible to rob a man of his free will in such a manner."

This concludes Book III. I shall now submit a document from Book V which arrived at a later date and belongs to the same subject matter. This is Document 69 which is to bear Exhibit #56. It is an affidavit by Professor Dr. Hermann Lehmann-Facijs. The Tribunal will perhaps remember that during the presentation of evidence by the Prosecution the so-called compatibility tests in insane asylums played a considerable part. Professor Lehmann-Facijs was in Frankfurt/Main where he was chief physician and lecturer at the university there. He says on page 1 of his affidavit: "The university psychiatric clinic in Frankfurt/Main, in the same way as other clinics, collaborated with the Farben Hoechst plant from a scientific point of view because they were the most recognized producer of medical drugs. This collaboration came into effect in such a way that Farben placed at our disposal medical drugs which had not yet been circulated commercially and which were then tested according to their therapeutic applicability as well as compatibility. This was also done with respect to Nitroceridine 3582. This medical drug was tested in the psychiatric university clinic, Frankfurt/Main, not specifically against typhus, but also applied in cases of acute disturbances of the intestine. As it becomes apparent from the letter of Farben of 2 October 1942, this medical drug could prevent diarrhea in the case of our patients. According to the expose with respect to Preparation 3582, this had already been

tested at length in animal experiments. It had already been clinically applied on human beings and had then been recognized as being harmless. In addition, there were self-experiments by the producers themselves. As a result of these prerequisites, any harm to the health of the patients on whom this drug was applied, was out of the question from the start. We never had any incidents, apart from insignificant side symptoms like dizziness, vomiting, etc."

At the end of his affidavit he says: "The application of the Nitro-acridine Preparation 3582 on our patients cannot be considered as an experiment, but rather it was a clinical test of a drug which had already been recognized as being harmless with respect to its compatibility and curative value."

Your Honor, this brings us to the end of Books III and IV.

THE PRESIDENT: Would you prefer to have your recess, Doctor, before you start on the other book?

DR. PRIBILLA: Yes.

THE PRESIDENT: We'll rise, gentlemen, for our morning recess.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

DR. HENZE (Counsel for defendant Kugler): Mr. President, I take the liberty of making a suggestion which I believe will serve to expedite matters. I ask that my client, Dr. Kugler, be excused for the rest of the morning session so that he can talk with me about the documents, so that when my colleague, Dr. Pribilla, is finished with his case we may conduct the redirect examination. I believe that we could go outside with a guard for this conversation.

THE PRESIDENT: Very well; we have your room here and you may have its use to confer with your client. That will be satisfactory, and your client is now excused.

DR. HENZE: Thank you.

THE PRESIDENT: The defendant Ilgner may attend the Commissioner's hearing at one-thirty this afternoon, if he wishes.

You may continue, Dr. Pribilla.

DR. PRIBILLA (Counsel for defendant Lautenschlaeger): Mr. President, after concluding Books 3 and 5, I now turn to Book IV. This book deals with the contact which the Hoechst plant, and therewith the defendant Lautenschlaeger, had with the agencies and the man whose crimes are known. In contrast to the version given by the Prosecution, the Defense must show that there was no agreement or approval by the Barben man, and specifically Professor Lautenschlaeger.

The first document, on page 1, is Lautenschlaeger Document 53, Exhibit 57. This is an affidavit of Dr. (Med.) Alexander von Engelhardt, who worked for a long time at the Behring Werke; from 1929 on he worked for Bayer in Leverkusen. He had to mediate between the plants and the clinics regarding new drugs. In the affidavit he shows how naturally the contact with Dr. Mrugowsky arose. The relations had existed for a long time. He speaks specifically about a Prosecution affidavit which is mentioned, as well as what impression he had of Mrugowsky. He says, under No. 2, at the

and: "Scientific judgment on Dr. Mrugowsky's methods being positive, there was no objections to let him also test the typhus vaccines."

Dr. von Engelhardt in the next paragraph speaks about the contact with Hoechst, and says: "On the occasion of one of my visits to him, Dr. Mrugowsky asked me if we had a good therapeutic remedy against typhus, to which I replied that the Hoechst people might have something of the kind."

I omitted one sentence in between. He said that the typhus serum had apparently not been sufficiently effective up to that time.

Then Dr. von Engelhardt reported to Hoechst, and Hoechst sent the latest drugs to Mrugowsky.

On page 3 there follows a very thorough affidavit by Dr. Mrugowsky. This is Lautenschlaeger Document 54 which has already been offered for identification as Exhibit No. 5. I now offer it in evidence under this number. I received this affidavit at the end of the Medical case from Mrugowsky and it deals with all possible questions in connection with those problems. I shall quote only a few brief excerpts. The statement is especially interesting because Mrugowsky was the superior of Dr. Ding, and the highest doctor in the SS in the field of hygiene. From 1939 until the collapse he was the head of the Hygiene Bacteriological Research Center of the SS Office, and from 1941 on he was in charge of the Hygiene Institute of the Waffen SS, which developed from the other agency. He was also hygiene advisor in the Waffen SS Medical Office and Hygiene Advisor on the Staff of the Reich Physician SS and Police.

On page 4 Mrugowsky states, in the third paragraph: "I am not aware that at any time orders were issued to a camp doctor or that suggestions were made by members of I.G. or Behring werke concerning the tests with remedies and vaccines which were carried out in the Buchenwald and Mau-thausen concentration camps, or that any one of them ever participated ac-

tively in such experiments with artificially infected persons or exercised any influence on such experiments. I also do not know of the presence in concentration camps of representatives of these manufacturing firms. At no conference between myself and such representatives was there any mention of artificial infection experiments on human beings. Professor Lautenschlaeger was not known to me prior to my detention in Nurnberg prison. Personal relations between us never existed. In particular, no connection whatever existed regarding any experiments on human beings. I consider it impossible that I.G. or Behring Werke were informed about matters relating to concentration camps because these were kept extremely secret."

Then Mrugowsky describes very carefully the organization under him, especially under "B," the subordination of the physicians working in concentration camps. He describes a conference with Dr. Ueber which dealt with completely normal medical affairs.

On the top of page 8 he says: "In the spring of 1943 — I do not recall the exact date — I received Compound 3582 in granulated form and later had this compound administered to typhus patients in the contagious wards of the SS hospitals at Berlin, Prague and Cracow."

On page 9 of the book, at the bottom, under No. 4, he describes a meeting with Dr. Domnitz and Dr. von Engelhardt, and he says:

"After the beginning of the Russian campaign, the Reich Ministry for the Occupied Territories was established, in which I worked as a consulting hygiene expert..In this capacity I reported the large requirement of typhus vaccine for use among the German officials and employees of the Behring Werke working in the occupied regions. As I recall, it amounted to approximately 20,000 units."

The Tribunal has no doubt noticed that Hrugowsky speaks of all questions. Here he is speaking of the vaccine of the Behringwerke mentioned before. Under No. 5 he speaks about the Gildemeister tests also connected with Behringwerke vaccine. His statement is especially interesting because the high SS doctor who was informed about everything is describing matters from the other side, so to speak.

He speaks under No. 6 about the origin of the Ding experiments, and at the end of his affidavit, on page 22 of the book, page 20 of the affidavit, he says once more expressly how secret all these experiments were kept, and that he could not imagine that Farben or the Behringwerke learned anything about it. He says, "By virtue of my thorough knowledge of the organizational structure of the medical service of the SS and the Channel of command, I consider it completely impossible that any influence would have been possible from this side." On page 24 there follows document Lautenschlaeger 55, Exhibit No. 58. This is a telegram of Dr. Ding, Hygiene Institute of the Weissen-SS, where he requests quite naturally from Hoechst the memorandum on Nitroacridine; he also asks for a telephone call. Subsequently Hoechst sent quite a number of preparations both to this Dr. Ding and to Dr. Hoven.

The next two documents are the file index cards kept at the Hoechst plant about these two doctors. The people in the Hoechst plant were scientists and were very careful, and they kept a very accurate record of every letter and every telephone call. I shall offer these two documents, - on page 25, Lautenschlaeger Document 56 as Exhibit 59, and on page 27, the document 57 as Exhibit 60. These two index cards are the most important documents for my case. One must compare these two cards with the fact that on the 13th of April, 1943, Dr. Ding visited Hoechst. The Tribunal will remember that the defense contention is that from this time on, relations between Ding and Hoechst were broken off at the instigation of the defendant Lautenschlaeger. If one looks at the file index card of Dr. Ding, this visit is entered as of 13 April 1943. Before

that, one sees deliveries of the preparation. Afterwards, and that is the decisive fact in this trial, one sees nothing further. Polite formalities. On the 15th of June a photostat was sent. On the first of June there is a notation "Dr. Weber was called for a conference". There was no answer to the request for information as to whether the time given was suitable. Later I shall present the statement of Dr. Weber that this conference never took place. On the 11th of July, 1944, a year and a quarter after Dr. Ding's visit, a letter arrives from Dr. Ding. The Prosecution has submitted this letter; it is Document No. NI 9747, Prosecution Exhibit 1684. Mr. Ding reports to Hoechst because the paper of Professor Holler and Dr. Zajitschek had been published in a scientific publication which I offered this morning. That is the document that I offered this morning. One can see that Dr. Ding is quite angry about that. He says on page 3 of his letter: "Unfortunately, since our last meeting, I have heard nothing more from you in this matter." The rest of the contents of the letter show that Dr. Ding believes because of the publication of Holler and Zajitschek that he can publish, and Hoechst answers this question on the 13th of July with a letter which is Exhibit 1686 of the Prosecution. The publication of Dr. Ding's paper is discussed, but the fact remains that from the time of his visit on, Dr. Ding received no more preparations from Hoechst.

If we look at the preceding document, Paragraph this is index card of Dr. Hoven. Contrary to the contention of the prosecution that Hoechst had a code address, one can see that Hoechst had a file index card for this Dr. Hoven; considered him an associate of the Hygiene Institute; but writes quite openly in many cases that the shipments were destined for Dr. Ding. This is apparently quite a natural situation and here again the date is very important. On the 13th of April, 1943, Dr. Ding's visit to Hoechst. From this moment on there were no further deliveries of drugs.

On the 25th of April, Citrate- "Varnuelen", printed fever charts,

office supplies, upon request of Dr. Ding five kilograms of Chromosal B for the tanning of some hides; again the same thing for tanning hides, but no Hoechst drugs and no preparations to be tested.

Then follows on page 29, Document 58, which is to become Exhibit 61. This is an affidavit of Dr. Julius Weber. This Dr. Julius Weber is, of course, the most important witness for the Hoechst question, and I intend to examine him. I do not know whether it will be possible to arrange the trip as planned, but I believe it would be better to offer this affidavit so that the judge and the gentlemen who carry out the examination will have some basis for it. The examination will deal primarily with the questions discussed here. Dr. Weber is a doctor and chemist. From 1927 until 1946 he worked in the Hoechst dye-stuffs plant, and from 1929 on he was head of the chemical pharmaceutical and sero-bacteriological department. Dr. Weber was the man who had to establish contact with the doctors and clinics performing the tests and is, therefore, the decisive witness for these questions.

MR. SPRACHER: Mr. President, in respect to the affidavit just introduced, we have no present objection, but since the affiant is a fugitive from both Allied and German justice, and since we therefore have never been able to interrogate this man, who very clearly has relevant information, if we can not arrange the investigation as has been planned in Switzerland, then we will ask leave to strike this affidavit because we think it would be much more dangerous than the introduction of affidavits of deceased affiants given the admitted circumstances.

DR. PRIBILLA: Mr. President, may I answer that? I would like to object to these statements that the witness is a fugitive. As far as I know he is abroad and has heart trouble and he fears, whether rightly or wrongly, that meeting the Prosecution would bring about excitement which might do harm to his health, but his lawyer has informed Judge Crawford through me that he is ready at any time to be examined abroad. Therefore, I ask that the affidavit be admitted, especially because Dr. Weber is for me the key witness for my whole case.

THE PRESIDENT: Gentlemen, not withstanding the very high regard that the Tribunal has for the reputation for truth and veracity that both of you enjoy, we yet do not know officially or as a matter of evidence that this witness is either a fugitive from justice, or that he suffers from heart disease. In other words, these are not matters of record. You gentlemen are not testifying. If you later want to make some showing about the situation, we will meet that then. Under the situation as it exists there is nothing for us to do but to admit this affidavit in evidence now. If something arises that requires us to consider the problem as to what shall subsequently be done with it, we will cross that bridge when we get to it. We do know by coincidence of names that this is the witness that Judge Crawford is supposed to examine in Basel one of these days, so there is nothing for us to do except to admit the affidavit to be introduced in evidence, but of course, under the practice that we have followed all the way along, that is without prejudice to the right of the prosecution to make whatever motion with reference to it they deem proper at the proper time.

DR. FARMER: Yes; I offer this affidavit as Exhibit 61. In view of the fact that the witness will probably be excluded, I do not want to quote too much from the affidavit, but Dr. Weber is the man most familiar with the facts, and gives a very subtle presentation of the whole contact with Dr. King. He says --

12. SWICK: Mr. President, I want to object to the utilization of any parts of this affidavit under the extenuating circumstances.

THE PRESIDENT: Gentlemen, we are concerned about not complicating a somewhat complicated situation beyond what is necessary. The Tribunal on its own motion will rule that it will not hear any explanation of this affidavit, Exhibit 61, at this time for this reason, that if the interrogation or the examination of this witness is conducted by the commissioner, and there is cross examination, then there will be no occasion for the use of this document. On the other hand, if that does not occur, then we shall have to determine whether the document will remain in evidence, and if it is ultimately in evidence we shall accord you, Dr. Prihoda, an opportunity to state the contents of it in line with the policy that we have followed heretofore, and we can say that this for the time being, at least. Is that understood?

DR. FRANKLIN: Thank you. Dr. FRANKLIN, I shall then not quote from this affidavit. I shall turn to the next document which is on page 50, Document No. 59, and Exhibit No. 62. This is an affidavit of Dr. Rudolf Passenger. Dr. Passenger is a doctor and a pharmacologist, and since 1937 he has at the Reich plant. Up to 1936 on he was head of the Chemo-pharmaceutical laboratory, as such he was the man in charge of work on typhus. Under No. 3 he describes the discovery and development of the drug Nitrocerthine. Under No. 4 he describes the effectiveness of nitrocerthine against typhus in animal tests. Under No. 5 the first tests of nitro-certhine preparation 3502 on human patients in clinics for comparability and effectiveness. Under No. 6 he describes the first information on tests carried out by Dr. Lang. He says "The work of beginning the clinical tests was the responsibility of Dr. Weber. With his memorandum entitled, 'Discussion with Dr. Lang', DFI 9727,

Exhibit 1654, was presented to me, I did not take the least objection to the information contained therein that Dr. Ding, 'departing from the method used in our experiments on animals, did not begin the treatment at an early stage, but only three days after the existence of the disease.' I understood this to mean that on the third day after the appearance of the specific symptoms of the disease the treatment of the typhus patients was begun."

Under No. 7 he describes the visit of Dr. Ding to Hoechst. 'On the 11th of April 1943 Dr. Ding accompanied by Dr. Weber visited me in my laboratory.' He then tells what was shown to Dr. Ding by Farben, but says in Paragraph 2: Subsequently Dr. Weber and I accompanied Dr. Ding to Professor Lautenschlager, where Dr. Ding discussed case records with temperature curves of typhus patients who, according to his statements, were being treated partly with nitro aridine preparations. He did not even once hand us his case records for a cursory examination. He pointed out that the temperature curves showed no definite drop in the temperature in the case of patients treated with the nitro aridine preparations. This was contrary to the conspicuously successful results of the treatments at the Frankfurt Clinic. In the discussions Dr. Ding gave evaded replies. The impression I received of him was not that of a scientist who was to be taken seriously. The discussions did not reveal, however, that Dr. Ding had carried out the tests in an unscientific and extremely unethical manner, as Dr. Hagen made known later in his book, "The SS-State." Since the method of infecting a human being, as stated in this book, differed so completely from the natural way of infection by rickettsia-carrying lice, such a method of conducting experiments never occurred to me as a scientist. When Dr. Ding asked whether we had any more typhus preparations, Professor Lautenschlager said that we had not. The discussion was terminated rather abruptly. It lasted perhaps 10 minutes. Before his departure, Dr. Ding asked whether we could let him have any more typhus preparations for testing. Professor Lautenschlager refused this request and pointed out that, according to the results which he had obtained, no further tests were

In his capacity as a Wehrmacht doctor he then heard in Hoechst of the nitroacridine preparations and says on page 2 of his affidavit: "I myself subsequently had nitroacridine preparations used on soldiers in the East who suffered from five-day fever". He used nitroacridine in the case of typhus on the son of a family who were friends of his.

On page 3 he tells that as a Wehrmacht doctor he happened to hear of the unfavorable results of Dr. Ding. He states expressly:

"Dr. Ding did not present to me any documents, temperature charts or the like. Also in the further course of the war no documents on the use of nitroacridine preparations by Dr. Ding have come to my notice. The absence of cures of which Dr. Ding had told me did surprise me in view of my own experiences and the favorable experimental results obtained by Professor Haller".

Professor Biedling says, under 7:

"The Prosecution, as well as the Defense, have asked me why, after my negative opinion of Dr. Ding, which I formed in 1942, I did not become suspicious of him when we met in 1943 and when the Hoechst works against him".

Regarding this I must say, that vaccine examinations and drug examinations are totally different things. While the vaccine is to protect against future infections, drugs are meant to cure those already diseased. This entirely different way of putting the question necessitates also quite a different procedure in testing. In view of the large number of persons affected with typhus, who at that time were lying everywhere in army hospitals in Germany, it was quite absurd, to get the idea that Dr. Ding could have produced artificial infection in order to subsequently test the curative effect and compatibility of chemical therapeutics.

Since 1919 I have heard of many clinical tests of new drugs, made by Farben and other firms, but never was this done on human beings deliberately infected for the purpose. Never have I ever heard of even only a proposal to first artificially cause a disease in persons on

whom a drug was to be tested subsequently. Such a procedure would have to be condemned not only for ethical but also for factual reasons. The results that one could attain in the treatment of such an artificial infection, would in no way be as convincing as observations of the effects of the preparation conditions of a natural infection. Precisely to me as a specialist a suspicion of this kind would never suggest itself.

I add that today, knowing Dr. Ding's method from the book by Dr. Kogen and from prosecution documents. I, as a specialist, can easily understand why he never found the use of the preparations effective in any way. This was inherent in the utter senselessness of his method." On page 66 there follows Document 60, as Exhibit No. 63, an affidavit of Dr. Max Bockmuhl, who speaks about the way and the conscientiousness with which a preparation was handled before it was given out for testing.

Under No. 4, he also mentions the visit of Dr. Ding and says:

"Dr. Lober informed me that he and Professor Leutenschlaeger became suspicious on account of the discussion with Dr. Ding concerning the results of his experiments with our preparation 3582. I remember that doubts arose regarding the dependable, unimpeachable testing procedure on the part of Dr. Ding. But I could never assert that it was understood in Hoechst that the typhus cases experimentally treated by Dr. Ding with our preparation were originally healthy concentration camp inmates whom he had artificially infected for the purpose of experimenting with the preparation".

There follows on page 71, Document 61, Exhibit No. 64, an affidavit of Erich Jack, who was the assistant and co-worker of Dr. Julius Weber. He deals with some individual questions. In his affidavit, under No. 6 he explains the fact that all exposures on preparations to be tested were marked, "confidential," or "secret". He says that the reason is that the manufacturers of pharmaceutical specialties are endeavoring to treat developmental projects relating to new compounds,

secretly and confidentially wherever possible, to prevent competitors from obtaining information about them. In addition, the patent conditions are for the most part still unclarified in the case of new chemical compounds, and applications in other countries can only be made on a larger scale when special effectiveness has been established in clinical experiments".

I offer this as counter proof to the contention of the Prosecution that "confidential" indicates the matter was criminal.

On Page 75, Document 62, Exhibit No. 65 are excerpts from the book so often mentioned here, the "SS-State" by Eugen Kogon. The excerpts which deal with Farben, in the form in which Farben was mentioned in 1946 in the first edition, but on page 2, in the form in which it was mentioned in the 2nd Edition in 1947. The author of the book was the clerk of Dr. Ding-Schuler in the Concentration Camp Buchenwald.

In the second edition of his book he says that later Dr. Weber and Dr. Fuesgaenger explained to him that Hoechst had thought that Dr. Ding was using the nitrocridine to treat soldiers in SS hospitals who had typhus.

On page 76 at the bottom of the page he writes: "When they," -- that is the Farben men, "had to recognize from suspicious evidence that the experiments took place at the Buchenwald Concentration Camp, they severed relations with the approval of their superior, Professor Leuten-schlaeger. I can confirm the truth of this last assertion from my work with Dr. Ding-Schuler".

On page 78 you will find Document 63, Exhibit No. 66, another affidavit of Professor Dr. Bieling. He speaks here as an expert on one specific question raised by a Prosecution document. The document is cited here, and his statement speaks for itself.

At the end of Book IV there follows Document 64 on page 80, Exhibit No. 67; page 81, Document 65, Exhibit No. 68. These letters are to show that after the war preparation 3562 was asked for by patients who were treated with it by Dr. Vetter in the Neuhausen Concentration

Camp.

On page 82, Document 56, Exhibit 69, is a document to show that even today, Balkanol is still in demand.

Mr. President, this concludes the presentation of documents for the defendant, Professor Lautenschlaeger.

THE PRESIDENT: What about Document 66, the last document in the book?

DR. PRIBILLA: It is to be Exhibit 69.

THE PRESIDENT: Does that conclude your presentation, Dr. Pribilla?

DR. PRIBILLA: The only question which is still open, Mr. President, is that of the witness Julius Leber, my basic witness.

THE PRESIDENT: We understand that situation.

DR. ROSEBATT: The Court has decided that if a defendant is not called to the stand his affidavit will not be allowed to prejudice the case against the other defendants. The Court has ruled that after the presentation of a case of a particular defendant, a specific application has to be made. Since the defendant, Professor Lautenschlaeger was not called to the stand by his counsel, I ask in the name of the other Defense Counsel that the affidavit of Professor Lautenschlaeger not be allowed to prejudice the case of the other defendants.

THE PRESIDENT: Dr. Rospatt, your motion is in order, in harmony with the ruling of the Tribunal, but I think that we could perhaps have a little more orderly procedure if you do not mind. At the conclusion of the evidence we should like to have one motion on behalf of all of the Defense counsel who wish to join in it. That would preclude us overlooking anything, or any confusion on the record. We shall permit you to make your separate and individual motion then, if there are no other similar motions but perhaps at one time we can call the matter up and dispose of the entire subject in one order, if that is agreeable to you.

DR. ROSPATT: Very well.

DR. von KRAFFT for the Defendant Kugler: With your permission, Mr. President, I should now like to continue the examination of the defendant Kugler, about the documents offered by the Prosecution.

THE PRESIDENT: Very well.

DR. von KRAFFT: I ask that the defendant Kugler be called to the stand.

THE PRESIDENT: The defendant Kugler may take the witness stand for re-direct examination.

RE-DIRECT EXAMINATION - Resumed

DR. HANS KUGLER

BY DR. von KRAFFT:

Q Mr. Kugler, do you have Document NI- 15228, Exhibit 2142, which Mr. Newman put to you during cross examination yesterday?

A Yes.

Q Please look at the first paragraph, especially the passage reading: "It is quite obvious that our tactical position toward the French is by far stronger if the first fundamental discussion takes place in Germany, and more particularly, at the site of the Armistice Delegation; and if our program, as outlined, will be presented, so to speak from official quarters."

If I understand the cross examination correctly yesterday, the Prosecution sees in this letter which you signed, a contradiction to your testimony. Would you please comment on this?

A In the paragraph preceding the letter to Dr. Kramer, - and this paragraph is not contained in the document submitted by the Prosecution.

Q But you have seen the original, and read the full text?

A Yes. In this preceding paragraph, mention is made that the official quarters have provided that from the French side, a member of the French Armistice Delegation, is also to be present. This was a new situation, as far as Farben was concerned. I believe that I am correct in interpreting the considerations at the time as follows. Farben feared that the parity, with respect to both governments, would not be observed if the German side sent only executive agencies to participate in the conference, namely the office of the Military Commander in Paris, whereas on the French side, there would be an official representative of the Vichy government who was also a member of the Armistice Delegation. Considering these aspects, according to my recollection and in my opinion, the first paragraph of the document submitted, should be read and understood.

After the 8th of November, 1940, - that is the date of this letter addressed to Kramer, the dispute between Wiesbaden and Berlin, as to jurisdiction actually started. We considered that this dispute was extremely unpleasant and awkward because, as it is later indicated, we were the object of dispute. Furthermore, after the Weisbaden Conference, on the 21st, which was the official conference in the presence of the Government representatives, the negotiations were carried on in an atmosphere and tone which did not seem to be very pleasing to us. Thereupon, we gladly made use of the opportunity to continue the negotiations in Paris. Paris told us, as Document 1242 shows, that no pressure was to be exerted. We actually did not wish to exert any pressure. We therefore, gladly agreed to have the further conference take place in Paris. This brings me to what I have said on

direct examination.

Q I believe that will suffice. Mr. Kugler, I have another question about this letter. Please look at the second sentence of the 2nd paragraph of the excerpt which reads, and I quote:

"We also feel we may assume that the gentlemen will have complete understanding for our complying at once with a wish expressed by the Armistice Delegation, this wish presumably being based on the fact that similar negotiations concerning industries of direct strategic value have already been conducted in Wiesbaden, and that the settlement in the dyestuffs field is to serve, in a certain way, as a pattern for other industrial fields."

Now I should like to ask you whether, according to your recollection of the events at the time, the idea that Farben wanted to consider its settlement a model came from Farben or from the State?

A The phrase you just read shows very clearly that we were repeating the opinion of Mr. Hammen in that letter. Whether we understood Mr. Hammen correctly at the time, I do not know. Perhaps we misunderstood him. Perhaps, however, we understood him correctly. Other gentlemen in Berlin belonging to the responsible agencies there, or in Paris, were of a different opinion. The fact that there was no clear policy in the various governmental agencies at the time, is shown by the Conference in Paris, which I had 20 days after this letter, - on the 28th or 29th of November, 1940.

It is also shown by the minutes, Exhibit 1242, I should like to quote the first paragraph from page 3 of the German version dealing with the question of "model", and the opinion of the Parisian gentlemen is quoted as follows:

"The situation is such that the proposals submitted for its settlement can in no way be considered to be prejudicial to any third party by the French side." This refers to our French proposals. The emphasis of this point of view seems to be necessary all the more, since

at the hotel Majestic, there was obviously certain inclination in favor of such qualified minorities and joint sales combines where the agreement with Schieber-Usine du Rhone (30 per cent participation) was considered as a pattern in that respect.

(A, Continued)

Conversely it is interesting in this connection that Henschel, a locomotive factory, by way of a private economic agreement, has obtained the majority of the French locomotive factory Somua."

Q. To correct the record, Mr. Kugler, you have now quoted from Document NI-14224, Exhibit 1886.

A. I apologize. It becomes apparent from my quotation that there was no uniform opinion at the time and that twenty days later another governmental agency is again talking of a pattern. That we, in our French proposal did not represent a model and principally did not wish to become a model, is proved by another document of the Prosecution, NI-6950, Exhibit 1253, Book 58. These are minutes of the conference at the Hotel Majestic in the presence of the Military Commander of France and the French Government. During this conference the French Government gave its approval to the Franco-German contract, in particular to the 51%. On Page 5 of the German version of this document, under III, it is stated, and I quote: "The German partner, in view of the present agreement, will not try to demand a majority participation in other French industries since this settlement, in view of the historical development (this refers to the historical development of the Farben Industry) and in view of the given technical and commercial facts, represents a special case."

Q. I believe we can leave this document now. Please look at Prosecution Document NI-15224, Exhibit 2143. This is a letter from Dr. von Schnitzler to you, dated 13 May 1941. In the first paragraph of this letter Mr. von Schnitzler points out that the French later "got cold feet" and that they did not want to accept the claim for leadership in the field of chemistry and in other fields. And he says that he is not surprised about that.

First of all, Mr. Kugler, do you know how this letter came to be written?

A. Herr von Schnitzler was in Kissingen at that time, where he

was on a vacation. I, in my capacity as the head of the Directorate Department, was in charge of preparing the conference in Paris by contacting all the other agencies concerned. I submitted Mr. von Schnitzler's Situation Report by letter, and in that connection I quoted the attitude expressed by the French side. Herr von Schnitzler refers to these preparations in his reply.

Q. Mr. Kugler, the Prosecution, if I remember correctly, put this letter to you yesterday after you had testified that Farbon's claim to leadership referred only to the dyestuffs field. Now, if you read the first paragraph of this letter doesn't there seem to be some contradiction to your testimony; and can you give us more information about this?

A. I certainly do admit that in reading this letter one may easily gain the impression, and perhaps even must gain the impression, that the situation with respect to this claim to leadership was somewhat different. The impression, however, is erroneous, and I shall prove it.

On the 21st of November 1940, there was the conference with the government representatives at Wiesbaden; on the 22nd of November 1940 there was the first private economy conference at Wiesbaden. About this conference an internal file memorandum was drawn up at the time. This file memorandum was introduced by the Prosecution as their Document NI-6838, Exhibit 1247. I quote from this exhibit, Page 110 of the German version, the last paragraph, continued on the next page:

"After it had been expressly once more clarified initially that the claim of the German dyestuffs industry to a leadership position in collaboration with the French dyestuffs industry had been confined exclusively to dyestuffs to their organic intermediates and to dyestuffs' auxiliary products—not to the other production fields of the participating French enterprises—these four principles are being explained as follows, in the further course of the negotiations."

Then follow statements with respect to participation in production, etc. The policy which has been expressed in this instance had not been abolished at any time. Then, how does this apparent contradiction arise?

St. Denis and St. Clair had told us positively from our former collaboration that they were pure dyestuffs factories. In the case of the firms belonging to établissements, Oissel & Villiers St. Paul, had experienced before the war, in the course of our collaboration with the French, that Kuhlmann, with respect to these two firms, in addition to pure dyestuffs production, had also embarked upon certain other fields of production—synthetics, lacquers, etc. The exact extent was unknown to us, nor did we know whether and how it would be possible to find within the scope of the provided combines of Francolors limitation with respect to those fields of production not within the category of dyestuffs. This question had already concerned us prior to the Wiesbaden conference. Evidence is found in the document of the Prosecution. In Book 57 the Prosecution has included No. 5610 but did not properly offer it as an exhibit. We have here an internal file memorandum of 31 October 1940. In this file memorandum a number of questions are contained which are connected with the provided project concerning France. It was to serve as the basis for further discussions and as a file record for discussions which had already taken place. On Page 1 of that document, German version, under Paragraph 2-a, the following is stated, and I quote:

"The production factories of établissements Kuhlmann of dyestuffs, organic intermediate by-products, and textile auxiliaries, (that was the title; the text goes on to state) plastics, synthetics remained outside of the dyestuffs combination." Then there is a question noted: "In the plants Villiers and Oissel is production arranged in such a way that it could be separated specially from the rest of the firm?"

THE PRESIDENT: The Tribunal will at this time rise until 1:30 o'clock.

(A recess was taken at 1215, to resume at 0130.)

AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 29 April 1948)

THE MARSHAL: Tribunal VI is again in session.

DR. NEITE: Dr. Neite. I should like to ask for your indulgence to make two brief statements. The first statement is on behalf of the entire Defense. The Prosecution has given to the Defense a large number of documents which the Defense is to examine in order to determine which ones, if any, will be used by the Defense as evidentiary material. This examination can only be made by defense counsel in collaboration with their clients. For that reason the Defense is asking for permission for the defendants who so desire to get together with their defense counsel in a room designated for that purpose, in order that they may examine these documents. For that purpose they would have to be given leave of absence from the sessions.

I may perhaps add that Dr. von Hoescht just told me that a similar settlement has been permitted by the Tribunal in the Krupp trial.

The second statement concerns the case of the Defendant Hoerlein.

THE PRESIDENT: The Tribunal is not inclined to look with favor upon anything that would be calculated to delay the prompt termination of the trial. It occurs to us, however, that with an intervening week-end approaching here, perhaps some way can be worked out to accomplish the thing that you have in mind, Dr. Neite. If facilities cannot be provided at the prison for you to see your clients, there then there is a possibility that, under proper supervision, we might have the defendants brought here to this building to some convenient room where you could confer with your clients in regard to that matter. We suggest this: If it is all possible we should much prefer that to considering the continuance of the trial at this stage of the trial. Do you think that it would serve your purposes if the Tribunal should arrange to have the defendants brought to some convenient place in this building during the week-end, where counsel and clients could confer freely and go over these matters, so as to save time for the trial proper?

DR. NEITE: This being Thursday, I think that it would be possible

if it could be arranged that on Sunday the defense counsel could meet their clients and examine the documents; but perhaps the Prosecution could tell us whether it would be possible to transfer the documents from the room in which they are at the moment.

MR. SPENCER: Mr. President, I think I passed up to Your Honors the regulations which Mr. Wibergall, who is in charge of the Document Control Branch and hence the Document Room, made. These regulations are similar to those put out for all persons, so far as I know, with respect to documents in the Document Room. Special arrangement would have to be made, not only for the room, but to have a staff present in the Document Control Branch to loan out particular documents. In some cases orders would have to be made. It seems to me this is a little premature until counsel have at least made their request as to which documents they wish to discuss with their clients.

THE PRESIDENT: Well, perhaps we should try to arrange that for Saturday and Sunday. In the meanwhile, before tomorrow evening, counsel for the defendants might be able to make proper requisition for the documents that they want access to. We may arrange for that then.

MR. SPENCER: Mr. President, if counsel does ask for a particular document he may have it for forty-eight hours, and he doesn't have to use it merely in that Document Room; and so, therefore, he could take it to his client at the usual place of sitting with his clients.

THE PRESIDENT: That would necessarily need to be done pretty promptly in order that the documents could be withdrawn from the files and be available to you. Do you think that would be practical, Dr. Helt?

DR. HELT: Your Honor, the difficulty is in something else. The Defense, unless discussing the matter with their clients, cannot decide which documents are of importance for them. There is often a difference of opinion about that between defense counsel and the defendants.

THE PRESIDENT: Well, you would not have in mind, of course, asking for the withdrawal of several thousand documents. You necessarily would have to exercise some choice as to which documents you want produced.

DR. WELT: Yes, your Honor, this choice will be made beforehand. We will ascertain by which documents and to what extent the individual defendants are concerned. From this limited amount of documents it is then to be ascertained which ones can be considered as evidence. But there are twenty of us; the interests are often overlapping. For that reason it would be expedient if the documents are only transferred from the room after it has been ascertained whether they are actually of interest for one or more defendants.

THE PRESIDENT: Now, what documents do you have in mind having transferred from the Document Center to your conference room? That's where I'm uncertain. Now, what documents do you want made available to you for conference with your clients?

DR. WELT: In that room there are 11,000 documents. They have an index. From that index defense counsel has great difficulty in deciding whether one document is of importance for them or not.

MR. SPEECHER: Mr. President, --

THE PRESIDENT: Let Dr. Welt finish.

DR. WELT: If, after it has been ascertained from that index how many of these 11,000 documents concern the Farben trial, we must select them from the documents -- which are approximately three to four thousand and we shall have to ascertain which subject matter they concern.

THE PRESIDENT: Dr. Welt, as I understand, you do not desire the production of any documents as such for your conference with your clients. You want an opportunity to confer with your clients as a group and to have available the index. Then, you will determine what documents you will ask for. Is that correct?

DR. WELT: Yes, Your Honor, that's correct.

MR. SPEECHER: Couldn't I just make an arrangement with Mr. Wibergell to make this index available at the appropriate time over the weekend? I don't know where the conference room would be, but wherever it is that index can be placed there.

THE PRESIDENT: Well, the Tribunal will direct the Marshal now to contact the prison authorities to determine whether or not there is any sizable room that would accommodate the defendants and counsel for the defendants for a conference on Sunday. If not, the advise the prison authorities that the Tribunal may issue an order to have the defendants brought to this building, under proper regulations as they may prescribe, for a conference with their clients. As far as that's concerned I do not see any reason why you may not use this room. There's ample room in here, and it certainly is not used for any other purpose on Sunday.

(TO THE JUDGE:) Do you see any reason why that can't be done?

Well, you may say to them what we have in mind if there are no facilities there, Mr. Marshal — that we have in mind that under proper supervision the defendants can be brought here to the courtroom at hours which will be arranged in advance so that they can consult or confer with their counsel. And I take it that there can be no practical reason why the index to the documents that has been e-mailed may not be available to you here in the room at the time? And then you can, if needed, on Monday or subsequently, make application for such documents as you desire. Will that serve the purpose, now, gentlemen, as you see it?

DR. NELT: Your Honor, this conference can also be on Saturday afternoon, because there is no session on Saturday.

THE PRESIDENT: I can be Saturday afternoon or Sunday, as you select, or for all day Saturday for that matter. We'd be unconcerned about it. Let me say this: I think we have heard enough and said enough to have a comprehension of the matter.

DR. NELT: If you will feel free to come into chambers this afternoon or tomorrow we can discuss the details of that arrangement. Tell Mr. Spracher when you're coming in so the Prosecution can be represented, and we'll undertake to work it out for you and to make whatever orders seem proper under the circumstances.

DR. NELT: Thank you very much.

DR. NELTSE: Now I have only a brief matter to put to you with respect to the Herlein case. The prosecution has submitted a number of rebuttal documents to me on Friday, 23 April. In view of the state of health of the defendant Herlein, the prosecution has stated that these were all the rebuttal documents pertaining to Count III of the indictment, medical experiments. The day before yesterday, Mr. van Helle told me that the prosecution had received one other affidavit from England and that they intended to submit that as another rebuttal document. I have made no objection to that course. This morning, however, two further documents have been given to me which have been designated as rebuttal documents and I find that I am not in a position to discuss them at present Professor Herlein. These documents are old documents. That is to say they were already available when the statement of the prosecution was made to me. I now ask for your statement whether the promise made by the prosecution actually means that the deadline for the submission of rebuttal documents is over and that further documents can only be submitted after your express approval, or is it that the prosecution can, at will, submit further rebuttal documents with respect to the case of Herlein.

THE PRESIDENT: What does the prosecution have to say by way of self-defense?

MR. MURSKOFF: The prosecution requires no self-defense. We have gone out of our way on a number of occasions, Dr. Neltse, to get him material not in the ordinary course. We have been overburdened with work, and in spite of that overburdening of a small staff, we have taken extra time out so he can get the documents before anybody else had the documents, so that he can have them in advance. Now we have done that here again and this is an indication of the fact that the more you do the more complaints you get. We have two documents which we received this morning. These two documents refer to the same things that the previous documents referred to which we received at an earlier date. We want to have a complete picture. These documents could have been put in by us and will be offered in any event as

cross-examination under the "autenschlager case". We were being helpful in letting him have in advance these two documents, before then, because of his particular predicament. We didn't have to offer these two at all for him for the rebuttal book. Both are perfectly proper cross-examination documents.

THE PRESIDENT: I understand. What Dr. Nalts means is that you had said that was all the documents you intended to use in rebuttal before the defendant Harlein went away. We realize that contingencies arise that sometimes make it necessary to make some retractions because of developments in a trial, and I may say also that the Tribunal is not committing itself that all documents that you gentlemen treat as rebuttal are going to be treated as rebuttal. We reserve the right for ourselves to determine whether or not the documents are rebuttal. And in that connection we will appreciate it if the prosecution will get to us, as well as to counsel for the defense, as soon as you can, the documents, so that we may be familiar with them when they are offered, because we have the responsibility of saying whether that is or is not rebuttal, and we should appreciate any helpfulness. Even if you could not get us the documents, perhaps the index would help us. Dr. Nalts, if, in your situation, on account of the physical condition of your client, you find it necessary, perhaps you can answer the rebuttal, if it's necessary for you to do it, but affidavit. Would that not be practical? Isn't Dr. Harlein in such a condition that you could get an affidavit of his explanation of any documents that come in in rebuttal?

DR. NALTZ: Certainly. But, your Honors, the issue here is whether I can place confidence in a promise made by the prosecution with respect to any specific case or whether I can not.

THE PRESIDENT: Dr. Nalts, the Tribunal would be in some position to have something to say about a promise made to you through the medium of the Tribunal. But you gentlemen have a right to, and we have encouraged your dealing between yourselves. If the situation arises that the prosecution thinks that it's necessary for it to depart from some commitment

that it has made to you and not to the Tribunal that is a matter which we are not directly concerned with and it's not necessary for us to pass upon it. In the first place, we can not tell you now whether the documents will ever be introduced or even received in evidence until we know what it is. In the second place, if you are taken by surprise the Tribunal would be disposed, within reasonable limitations, to help you out of your predicament by giving you some opportunity to make an answer. Now, it seems to me that is about all you can expect from the Tribunal. If you find that by reason of these affidavits or documents, whatever they may be, that you need an opportunity to bring in an affidavit from Dr. Harlein in answer to them, the Tribunal can take care of that. We don't even know yet that the documents will be admitted into evidence and therefore we can't make any commitment about the merits of the controversy between you two gentlemen.

REDIRECT EXAMINATION

Hans Kugler

BY DR. KELPT: (For the defendant Dr. Kugler)

Q. First let me correct a mistake which my client made before the recess when he was quoting from a document contained in Book 57. This is Document NI 5810. He stated that this document was not in evidence. It was put into evidence at the time the witness Kaupper was heard on 29 February 1948 and became Prosecution Exhibit 1855. Now, Dr. Kugler, you have quoted from the said document and you have stated that Farben, before the Wiesbaden conference of November 1940, had considered what settlement was to be made with respect to products which were not dye-stuffs but which were produced in the Kuhlmann factories. Is there anything you have to explain in that regard?

A. In order to clarify this matter let me state the following. When, in the beginning of 1941 we sat down at the conference table with the French, we learned what products and approximately to what extent they were produced at St. Villers and Oissel, that is products which were not dye-stuffs. We and the French confronted with the question as to what is

going to happen to that production, because it did not fall under the so-called Leadership Claim. There were various possibilities for settlement in that regard. Theoretically there could have been a dismantling of the plants and the transfer into a plant of Establishment Kuhlmann. Or one could have left the factory alone and could have formed a new legal structure by forming a new special company. All of these seemed to us, as well as to the French, a rather unbusinesslike step. It seemed too complicated. In the discussion, it was also considered that these various productions were partly based on the intermediates which were produced at these two plants. That is how it was finally arranged, and I think that was done during the April meeting, that these products be left where they were. Then they are in a factory to which the so-called Leadership Claim applies, if they are left there, then the French would have the advantage that all the agreements with respect to technical assistance, as to know-how, and so forth, would apply equally to all of these products even though they are not dye-stuffs. At that time, in April, the French were in full agreement as we thought. This is what Herr von Schnitzler uses as the starting point of his statement in his letter. The fact that the French were in agreement can be seen from the way Herr von Schnitzler's letter is phrased. He says that the French were afraid of their own courage. If one loses one's courage one must have had it. The French realized that it would be the most reasonable solution for both parties to continue producing the products where they had been produced up to now. The reasons why the French changed their opinion afterwards can be explained by the following. This reason is characteristic for the value of Farbman's technical assistance. The consideration of the parent companies was this -- if Francolor, with the technical assistance of Farbman, works in this field and develops a new, as it were, then it may happen under certain circumstances that the subsidiary company, that is Francolor, would fare better than the parent companies Establishment Kuhlmann and St. Clair and St. Denis.

During the next meetings we continued to discuss that subject and a solution was found which consisted of the following. The products remained in the factories. In order to express that they do not fall within the category of dyestuffs, but represent something else, the sale of these products was not handled by Francolor, but the parent companies became Francolor's agents for these products. It was furthermore agreed that the parent companies are entitled, at all times, to produce these products at their own factories. If they did so, the only consequence is that they can not simultaneously remain the agents of Francolor, because then the parent companies would, in a certain sense, become the competitors of Francolor. This settlement becomes apparent from Article 18 of the so-called Convention. That is Exhibit 1255, Document NI 6845.

JUDGE MORRIS: Just a moment. May I break in here. It occurs to me that we are getting quite away beyond or over redirect examination. The avenue is not open on redirect to take up the main defense again and go far into further details. Now I have noticed the witness has been arguing his case much more than he has been testifying the last few minutes. May I suggest to both counsel and witness that you can find the questions and the answers to these things that are proper on redirect examination — that is to make brief explanations of any of the documents that have been introduced in evidence on the cross-examination, so as not to leave a false impression from the defendant's standpoint, of the documents that have been introduced, or if the defendant has, on cross-examination, made a statement that may possibly be misconstrued, he is entitled to explain it sufficiently so as to bring it before the Tribunal in the proper light. But certainly redirect examination doesn't entitle the witness to go into lengthy discussions of matters that he testified to upon direct examination, and particularly it does not entitle him to argue his case. In other words, the statement of fact is one thing, but to go back into other documents and build up an argument is something that is entirely improper and I suggest we confine the examination and responses from now on a little more within

the proper limits of redirect examination.

DR. KRAFFT: Judge Morris, it is my opinion that Mr. Kugler has sufficiently clarified the contradictions which I have seen in the documents. I have no more question and in the future I shall abide by the suggestions of the Tribunal.

THE PRESIDENT: Go ahead.

BY DR. KRAFFT:

Q. Mr. Kugler, you said that Dr. von Schnitzler had written to you on 13 May, and in the course of this letter the estimate is mentioned. Dr. Schnitzler discusses a confusion of figures which the French have submitted with respect to the value of the plant. Can you briefly state what Dr. Schnitzler actually meant? Can you tell me how the estimate was actually made?

A. Originally it had been the intention of both parties to evaluate the individual plants which were to be merged with Francolor, by estimating the value of the individual inventories. For this purpose experts had been appointed who were to inspect the plants. Furthermore, the French had submitted a number of figures upon which these estimates were to be based. This material helped very little and that is probably what Mr. von Schnitzler meant when he made his remark. At the next meeting, however, the previous agreement of individual estimates was dropped and it was decided that the entire object be evaluated as a going concern according to the French turnover figures.

DR. KRAFFT: Your Honors, I have no further questions.

BY DR. SIEMERS: (Counsel for von Schnitzler)

Q. Your Honors, with respect to a number of other documents which have been submitted during cross-examination, I have a number of questions to Mr. Kugler. My questions concern the Francolor part. Dr. Kugler, would you please look at Documents Exhibit 2147, NI 15238 and then Exhibit 2148, NI 15222. The prosecution has put to you and quoted the following from NI 15222 Exhibit 2148: "Under the circumstances, Dr. Kramer does not consider it expedient to conduct the contemplated negotiations. He

thinks it necessary first to put the French agencies under pressure before taking up further discussions." For what date were these negotiations intended?

A. For the days after 10 March.

Q. When did the negotiations actually take place?

A. As is shown by Prosecution's Exhibit 1253 they took place in the days from 10 to 12 March.

Q. In other words, Farben did not follow Dr. Kramer's suggestion?

A. Farben did not follow his suggestion, as it becomes apparent from the last paragraph of Exhibit 2147. Farben wanted to continue the negotiations as quickly as possible. They did not consider Dr. Kramer's suggestion and they kept the date.

Q. I should now like to ask you to look at the two other documents, Exhibit 2149, NI 15219 and Exhibit 2150, NI 15218. Your Honors, first of all let me object to the presentation of these two exhibits in this abbreviated form. I should be grateful to the prosecution if they could submit these documents to their full extent. Exhibit 2149 has ten pages and Exhibit 2150 has eight pages. As it is shown by the document, one paragraph taken out of its context, gives rise to a completely erroneous impression.

THE PRESIDENT: To be consistent with our rulings in the past, that objection must be overruled. If the prosecution has possession of the balance of the document, counsel for the defense is entitled to have access to it. But that, under our ruling, does not make it necessary for the prosecution to burden the record here with more of the document than it thinks is proper for its own purposes. Counsel for the prosecution will advise you, I am sure, whether or not they have the balance of the document, and if they do, you are entitled to see it.

MR. SPEECHER: It's in the courtroom and in the Secretary's files and as the witness, Dr. Kugler has indicated, he has seen the full files.

THE PRESIDENT: Very well. Then the objection is overruled with that information.

BY DR. SIMONS:

Q. Dr. Kugler in Exhibit 2149 Mr. Lencle discusses the preamble of the Francfort contract. He has misgivings about the preamble because it might be interpreted as pressure. He says, and I quote: "The preamble which is intended could be of disadvantage to us later." He suggests a different version. Who was the responsible lawyer of Farben who dealt with these legal questions.

A. That was Dr. Kuemper.

Q. Did Dr. Kuemper express any opinion with respect to Mr. Lencle's statement?

A. Yes.

Q. Did you personally discuss this with him?

A. Yes.

Q. Do you remember his written statement which is contained in Exhibit 21507

A. I received this document after cross-examination this morning. I read it and I remember the paper very well.

Q. According to this document and according to your personal conversation did Dr. Kuopper approve of H. Loncle's position?

THE PRESIDENT: We well remember that Dr. Kuopper was a witness here and testified quite fully with respect to that very point; that the preamble was proscribed by governmental authorities and that it did not represent his views as representative of Farbon. That's all in the record here. This is highly repetitious. We well remember the details of Dr. Kuopper on the witness stand telling that whole story. Now, no good point would be accomplished by just burdening this record with repetition of that when we have the best source of what Dr. Kuopper had to say about it in his own testimony.

BY DR. SIEMERS: I beg you pardon, Your Honor. I wouldn't have brought up this matter at all if the prosecution hadn't submitted the document.

Q. I therefore wanted to ask you only whether Dr. Kuopper told you anything about it. What was your opinion about the complete form of this preamble?

A. After I have been able to refresh my memory by reading document 2150 I can only state the following. This document shows the actual position of Farbon. It further proves basically what I said during cross examination, before knowing the document. I should like to refer to the last paragraph of the Document 2150 where Dr. Kuopper says that the misgivings of H. Loncle are not very serious and important. He furthermore says that the background and history of the negotiations does not only become apparent from the preamble, but can be proven by the statements of the Frenchmen themselves. Dr. Kuopper concludes his opinion by saying - and this opinion was approved by Schnitzler, Tor Ikar and all the others - "If the preamble cannot be stricken, then from a legal point of view we can accept it."

Q. Dr. Dugler, did the imports of dye stuffs from Switzerland play any part in the course of the negotiations?

A. Yes, in many ways.

Q. If the documents mention negotiations about the demarcation line

between the occupied and unoccupied territory of France, does this merely have a political significance or also an economic significance?

A. It has an economic significance to a very considerable degree. I might state that the economic significance was even more important than the political one.

Q. And in what respect from an economic point of view?

A. With respect to the entire traffic of goods and with respect to the economy in the occupied territory, on the one hand, and the unoccupied territory on the other.

Q. The export has already been discussed. Did Francolor or did these plants of Francolor located in the occupied territory, when the contract was concluded, possess any stocks of raw materials of dye stuffs?

A. Yes, considerable stocks.

Q. Was Farbon interested economically that in case a contract was concluded Francolor should have stocks of dye stuffs?

A. One might well say that.

DR. SIEBENS: I have no further questions.

BY DR. MENZIE:

I should like to put a few questions to the defendant with reference to the documents which have last been introduced.

Q. Mr. Kugler, have you got Exhibit 2151 of the prosecution before you?

A. Yes.

Q. Was the signatory of that letter, Dr. Pech, an employee of Farbon?

A. Yes.

Q. Was he an employee of the sales combine dye stuffs?

A. Dr. Pech and the officials of his office were paid and listed by the personnel department of the Frankfurt office, that is of the sales combine dye-stuffs. According to his functions however, Dr. Pech and his office were not under the sales combine dye stuffs.

Q. Then how could Dr. Pech give an expert opinion on the management department dye stuffs?

A. Dr. Pech was the head of the so-called organizational office. This was a special department of Farben entrusted with the task of carrying out so-called efficiency investigations at the sales combine, plant combines and also foreign branch offices.

Q. In other words, he had to investigate whether this department was over-staffed?

A. That is exactly why he made that statement. Let me add something in order to explain this. This report originates from January 1943. At the end of 1942, the Wehrmacht needed more and more men. The defendants were strictly checked. General Unruh had started his well known drive in Germany which meant an inspection of all private enterprises and all agencies of the Reich and the provinces, in order to determine whether or not redundant personnel was available who could be turned into soldiers. At that time, Dr. Schnitzler in order to be covered before the military authorities, ordered that office Pech to investigate every department of the Grunenburg house and to find out whether the work load could be settled with the available personnel or with an even smaller staff. Dr. Pech received the order to work out a written report about the result of his investigation, with respect to every department so that if any complaints were made by the military authorities it could be proved that Farben had done its duty and that it was not overstaffed. Pech or his deputy Doehmert inspected the management department from this point of view.

Q. Were Mr. Doehmert or Mr. Pech particularly suitable to evaluate the field of tasks of the management department and staffs because of their training, were they?

A. No, in no way at all. I would designate these gentlemen as administrative efficiency experts. They could state how a certain process could be done most quickly and with as little personnel as possible, by mechanization, etc. but they really couldn't judge the technical field of work of the management department, and that wasn't really their task. They were not directed to investigate the management department with respect to its tasks, division of responsibility, etc. They only could tell the head of that department, "Your department has fifteen people.

In my opinion as an efficiency expert, I think that you need them all, or that you only need ten and you can do without five, etc."

Q. Then, Mr. Kugler, Am I correct in assuming that this report was one of many which Dr. Pech made on all the departments of the Grueneburg house?

A. That is correct. This document is only a small excerpt of the many reports made by Dr. Pech in the course of the Umruf action.

Q. That will suffice.

Your Honor, this document constitutes only a part of the report. I ask for permission, in order to present a complete picture to you, to read the last four lines of the report into the record. "The staff decreased from thirty-three members before the war, to eleven", and then the last sentence: "In accordance with the tasks to be performed and with the type of the work, this department cannot be considered to be over-staffed and, in addition, carries out its tasks according to the staff available."

Mr. Kugler, I shall now turn to the last exhibit, 2152. This is a letter by the commissar management of Aussig to the Ministry of Economics, dated 26 October 1938. Did you write that letter?

A. Yes.

Q. In this letter a conference is mentioned with the Plenipotentiary for Special Questions of Chemical Production. Please tell me whether you were asked to attend this conference or whether this conference was due to your own initiative?

A. I was asked to attend the conference.

Q. During that conference were any directives issued to you?

A. Yes. In order to illustrate the background of this conference, let me state briefly that shortly after my arrival at Aussig various Reich agencies sent visitors to me. These were gentlemen from the Army Ordnance Office, gentlemen from the Office of the Four Year Plan. Dr. Ritter was among them, who already arrived at Aussig on the 12th or 13th of October, and there were gentlemen from other Reich agencies. These gentlemen, on the one hand, wanted to gain some picture of the situation in the Sudetengau, the situation of plants in which they were interested and, on the other hand, made certain proposals as to what could be produced in the Sudetengau. Observing my duties in my capacity as a neutral trustee, I gave information to these gentlemen and in particular to the gentlemen of the Four Year Plan and of the Army Ordnance Office I said that they were actually putting questions to me to which I either could not or must not answer in my capacity as a trustee. As a result of my attitude in this regard, that conference took place in Berlin which is mentioned on page 3 of the document, third paragraph. That was on the 26th of October 1938. I was asked to go to Berlin where I attended this conference. I then wrote about it in the letter to the Reich Ministry of Economics as follows: "Conferences in that regard took place this morning in the office of the Plenipotentiary for Special Questions of Chemical Production, Dr. Krauch, and in the course of the discussions the commissar management was asked to assist in the planning of new plants proposed for Aussig and Falkenberg for the production of gasoline, paraffin, etc." I don't want to go on quoting, but I want to mention one more sentence. I should like to point out that this participation of mine went already beyond my original instructions as commissar. I further mention to the Reich Ministry

of Economics that I am not sure as to what extent I could participate in such projects without approval of the Prager Verein. It becomes apparent from the further contents of the letter what this was all about. New investments and new plants were discussed with capital investments of altogether sixty million marks. The entire value of Aussig-Falkenau only amounted to twenty-six million marks.

Q. I think, Mr. Kugler, you have explained that sufficiently.

Only one or two more questions. Did Farben approach you with the request to follow up such plans?

A. Counsel, for clarification, let me state one more thing. You were asking me whether the plans were actually carried out or not?

Q. Well, I wanted to ask you that later.

A. Well I think that is what you should ask me now. Do you want me to answer now?

Q. Yes, if you would be kind enough.

A. Nothing happened as a result of all these projects. The gentlemen from Berlin had rather confused ideas. That particularly applied to the coal fields of the Aussig and Falkenau territory. The gasoline and paraffin production which in itself was to amount to over fifty million marks was impossible at Aussig and Falkenau, as it was shown later, because there wasn't enough coal. The coal which we had in the three mines was only sufficient for our own demands and would have lasted for only about thirty to forty years. If all these other products were to be produced, we would have used up our stocks within a year or two.

Q. Mr. Kugler, projects are often carried through which are unreasonable from an economic point of view. That is why I put this question to you. Was anything ever done with respect to these projects?

A. The stabilized calcium hypochlorite was not produced. Fog acid was not produced. Gasoline and paraffin were not produced. The latter was produced later in a large plant of the Hermann Goering Werke near Bruex and Dux, a coal area. The only product which was produced at all in this field was hexa-chlorine-ethane which was already mentioned. This

was produced in the Reich plant in the years 1942 to 1943. Hexa-chlorine-ethane is a rather harmless product and only compounded with Zink dust it results into fog. If you don't add that, it can be used as moth powder. I use it at home in my cupboard.

Q. I don't know whether you replied to my previous question. After you have told us that these suggestions were made to the commissar by the state I asked you whether Farben was in any way connected with this matter. Did Farben make any suggestions? Did they issue any orders?

A. No, in no way at all.

Q. I think that will suffice.

A. I acted as a neutral trustee and as a plenipotentiary of the Ministry of Economics. If the whole of this letter is read then it can be seen that it represents a cry for help on my part to my boss, the Reich Ministry of Economics. "Please tell me what to do. A number of people are approaching me. They want something from me. If I am to realize their aims then I don't know where to take the money from nor how I can justify that to the proper owner, the Prager Verein." That is the sense of that letter.

DR. HENZE: I have no further questions.

THE PRESIDENT: Anything further from defense?

Anything from the prosecution?

DR. NEWMAN: I have no question in recess. I gave to the defendant and defense counsel one document before the luncheon recess which I would now like to introduce. This is NI 15220 and it may go in as Prosecution Exhibit 2153. This is the defendant Kugler's letter to the defendant von Schnitzler of May 12, 1941. It is being introduced with reference to what this defendant testified on in redirect in connection with our Exhibit 2143 which was introduced yesterday. I particularly refer to page 2 of both the English and the German mimeographed copies, item #6 of the document.

THE PRESIDENT: Just a moment, Dr. Newman. That is Document 15220?

DR. NEWMAN: 15220.

THE PRESIDENT: And it is your Exhibit 2153.

DR. HEWMAN: Exhibit 2153.

THE PRESIDENT: Very well.

DR. KRAFT: Your Honor, it is true that Dr. Hewman informally handed this document to me. I do want to put a question, however, whether it is admissible to introduce this document now after the examination has been concluded. For that reason I should like to object to the introduction of that document.

THE PRESIDENT: Well, the rules that cover matters of that kind are not invariable. If the Defense counsel have not been taken by surprise and have had the document, as the Prosecution has indicated, in advance, and had notice that the Prosecution intended to offer the document, no harm is done the Defense, unless it is a fact that they may wish to ask the defendant something about it.

Your objection is overruled. But if, within the rules of direct or redirect examination, you want to interrogate the defendant about it, do it very briefly, we will permit you to do it.

Is there anything further you want to make inquiry about?

DR. KRAFFT (Counsel for defendant Kugler): In that case I should like to afford Mr. Kugler an opportunity to state his position with respect to this document and with respect to the sentence just quoted by Mr. Newman.

THE PRESIDENT: If the defendant has something to say about it, and it would not take too much time to do it, we will afford you that opportunity.

WITNESS: My position will be very brief. I have already read that document. The sentence which was quoted when the document was introduced, considered in the light of my statements during redirect examination, gives no occasion for any further explanations. From a factual point of view, it covers exactly what I have already testified, about the way this contract came about and it illustrates all that I said about the produits divers (various products) and developments futures (the future developments). This letter as a whole is an excellent proof and it shows that one cannot state that Farben prepared drafts of the contracts and submitted them to the Frenchmen for their signature. On the contrary, there were discussions and conferences lasting for months, and in that way the structure of the contract was arranged.

DR. KRAFFT: Your Honors, I have no further questions.

THE PRESIDENT: Then the witness is excused.

(Witness Hans Kugler excused).

DR. ASCHENAUER (Counsel for defendant Gattineau): Mr. President, I must ask for your indulgence if I appear now before this Tribunal because, actually, I intended to remain before the Commission. But a rather confusing matter came up during the Commissioner's hearing. The Prosecution has just now submitted Document 3763 into evidence. They offered it. I objected to the introduction of that document. The matter is as follows. By way of cross-examination, by a devious route, the Prosecution is trying to introduce a document which actually should have been introduced a long time ago. The document bears the date of 29 January, 1947. It should have been introduced before, especially because I am thinking that by way of rebuttal only new documents can be submitted.

With respect to the cross-examination, the matter is as follows. During the Commissioner's hearing the witness Reithinger was questioned about an affidavit which he made in the case of Ilgner pertaining to VOWI. If I now look through the affidavit which was introduced by the Prosecution, one can see already from looking at the titles that this affidavit is in no way at all connected with VOWI. There are three titles contained in that affidavit: One, "The Foundation of the Economic-Political Department;" two, "Gattineau's Appointment as Head of the WIPO; and three, The Activity of the WIPO".

I can't understand how this affidavit can have anything to do with the activity of the VOWI.

THE PRESIDENT: Counsel, let me say that the Tribunal is in no position to pass on a matter of that kind until the transcript of the proceedings are before us. If your position is sound--and I emphasize the "if"--you need not have any concern about it. In other words, if it is not proper cross-examination, it will be stricken out. But you cannot expect us to determine that matter until we have the transcript of what

went on before the Commissioner, as well as the affidavit that was the subject of the cross-examination, before us.

Now, as soon as the transcript of the proceedings before Judge Crawford are available, if you will give us a memorandum of any rulings that you think were improper, I mean any admissions of evidence that you think were improper, the Tribunal will promptly pass on that. We can't do it beforehand; it would just simply be impossible to resolve all the controversies of fact that would probably arise between Defense and counsel for the Prosecution until we have the papers before us.

DR. ASCHENAUER: Your Honors, let me add the following in that case. I am concerned with the following question. An affidavit of the Prosecution is before us. On the basis of this Prosecution affidavit I have to cross-examine Mr. Reithinger. As long as the affidavit is not admitted, as long as no ruling has been made with respect to my objection, I am not in a position to cross-examine Mr. Reithinger, and I am really not interested in doing that.

Consequently, unless a ruling is made, either today or tomorrow, Mr. Reithinger, after the objection has been ruled upon, has to be brought to Nurnberg again.

THE PRESIDENT: Just a moment. Counsel, let me suggest to you that what you should do, it would appear, under the circumstances, is to state on the record of the Commission that you think the document is not proper cross-examination, that you are going to ask the Tribunal to strike it out, but that without waiving that you will now cross-examine the witness, and go on and conduct your cross-examination. Then, if we find your position as wrong, the cross-examination will be in the record. If we find that your position is well taken, the document and your cross-examination will be out of the record.

Now, you can do that without waiving anything just by stating on the record that you expect the Tribunal to pass on your motion, and you are not waiving it but that you are cross-examining the witness in order

to protect your record in the event the Tribunal should rule against you on your motion to strike the exhibit. And then as soon as the transcript is available, if you will call it to our attention and give us a citation to the English page of the transcript, we will promptly pass on the motion.

DR. ASCHENHUTER: Your Honor, one moment, please. I have already made that objection. Cross-examination puts me before a problem. There is a conflict of interests in the course of which I may perhaps make an application with respect to a contempt of court action. For that reason I am not interested in carrying on a cross-examination if that may be in connection with that matter. For that reason it is necessary that the objection be ruled upon beforehand.

THE PRESIDENT: Counsel, you will have to determine for yourself which fork of the road you wish to travel. You can waive the cross-examination, stand on your position with reference to the document; or you can reserve the right to cross-examine the witness subject to your right to renew your objection before the Tribunal. I am sorry we cannot help you out on that. You will have to make your own decision, but you will not be hurt if you do cross-examine the witness and then if the document is stricken from the evidence, the cross-examination will go out and the matter will stand without the document before the Tribunal.

Now, as I said before, we cannot pass on the merits of that controversy until we see the record and have the affidavit before us. But in the meanwhile, it is one of those responsibilities that counsel bears when he enters this profession of ours.

And the Tribunal will rise for a little recess right now.

(The Tribunal recessed for fifteen minutes).

(AFTER RECESS)

THE MARSHAL: The Tribunal is again in session.

JUDGE HERBERT: Just one moment, Dr. Siemers, before you start, I want to make a very brief announcement. The Prosecution has distributed, I understand, or has had distributed, Book I containing certain documents which it proposes to introduce as Rebuttal evidence. The English copy of that book is also available. Earlier in the week, some of the Defense counsel spoke to us about having those documents available at the earliest possible time, and we think it would facilitate matters greatly if we could set aside about one-half hour tomorrow immediately after the noon recess, at which time the Prosecution could offer those documents to the Tribunal and the Tribunal will, of course, take under advisement, the question of whether they are or are not proper rebuttal documents. So, if there is no objection, we will follow that procedure of setting aside one-half hour beginning at one-thirty tomorrow, for the presentation of those rebuttal documents.

DR. SIEMERS (Counsel for Dr. von Schnitzler):

With the permission of the Tribunal I should now like to offer my documents. I begin with Document Book I. I offer Schnitzler Document 9, as Exhibit 9. This is the examination of Dr. Schacht, of 9 September, 1946, before the International Military Tribunal, and is with reference to the campaign fund for the Reichstag election in March, 1933.

Forben's participation in this campaign fund has been cited by the Prosecution as circumstantial evidence under Count I. Dr. Schacht said before the International Military Tribunal, in his second answer, that he would participate, (in this campaign fund) I quote, "Very well, if it is not for your Party alone". Then at the end of the page I quote his answer: "For the Hugenberg Party, the Volkspartei and Hitler".

The next document, No. 10, I offer as Exhibit 10. This is the examination of Dr. Hjalmar Schacht on 21 July, 1947, on the same subject, the campaign funds for the Reichstag election of March, 1933. In the

Flick trial, when he was examined by Dr. Dix. I may add that I will present only a very little of this, because the Tribunal will recall that Dr. Flick was examined by me here in the Courtroom and he described the details of this. I would merely like to ask you to give special attention to Dr. Schacht's answer on page 9. I quote: "Then a representative of the German People's Party arose and said: 'My party, - the German People's Party, - will join in this coalition during the election, and therefore I move that the German People's Party, too, should have a share in this fund'. And the decision was made accordingly. Therefore, collections for the fund were made for the three parties, the German Nationals, (Deutschnationale) the German People's Party (Deutsche Volkspartei) and the National Socialist Party."

I may remind you that Dr. Flick made the same statement, and added that the representative of the German People's Party was the representative of Farben, and that as representatives of Farben there were present Dr. von Schnitzler and a second gentleman. Dr. Flick remembers this because Schnitzler was next to him at this meeting.

Then I should like to ask you to look at page 11, the last paragraph at the bottom, and page 12 at the top. I quote:

"At the most, we were concerned with a sum of about two million Marks which Hitler could have used for his Party. Naturally he could have obtained that money quite easily privately; that is to say, he could have obtained it from individual firms or persons. Formerly, too, the parties handled such matters in such a way that they did not call a conference but approached individuals."

I believe that this testimony has special weight, because Dr. Schacht was the greatest banking expert in Germany at that period.

I now leave this subject and offer as Document 11, Exhibit 11, a short article published in the "Frankfurter Volksblatt" on 14 March, 1933. It concerns the fact that on a day when Swastika flags were flying everywhere, the big Farben Administrative Building in Frankfurt did not display the flag. The Frankfurter Volksblatt became quite excited about

this, and said that this indicated Farben's attitude in not displaying the new flag.

I offer this document to show that it was known in the Press what has been mentioned here frequently before, - that Farben was not as a whole, pro-National Socialist.

I now offer as Document 12, and Exhibit 12, an excerpt from the book of Winston Churchill, "Great Contemporaries", London, 1935. This document was introduced as Reader Exhibit 18 in the IMT trial. The English text is on page 17, the German text on page 18. Churchill says: "It is not possible to form a just judgment of a public figure who has attained the enormous dimensions of Adolf Hitler until his life work as a whole is before us. Although no subsequent political action can condone wrong deeds, history is replete of examples of men who have risen to power by employing stern, grim and even frightful methods but who nevertheless, when their life is revealed as a whole, have been regarded as great figures whose lives have enriched the story of mankind. So may it be with Hitler-. Such a final view is not vouchsafed to us today (written in 1935). We cannot tell whether Hitler will be the man who will once again loosen upon the world another war in which civilization will irretrievably succumb, or whether he will go down in history as the man who restored honor and peace of mind to the great Germanic nation and brought it back severe, helpful and strong, to the forefront of the European family circle. It is enough to say that both possibilities are open at the present moment. If, because the story is unfinished, because indeed its most fateful chapters have yet to be written, we are forced to dwell upon the darker side of his work and creed. We must never forget nor cease to hope for the bright alternative."

I believe that if such a great man as Churchill thought this in 1935, the Prosecution cannot demand of these industrialists that they should have had more insight.

As Document 13, Exhibit No. 13, I offer an excerpt from the Voelkischer Beobachter of 20 December, 1936. The Court will remember that the Prosecution has cited as further circumstantial evidence of support of Hitler's aggressive plans by Forben, the fact that Dr. von Schnitzler was present on the 7th of December, 1936, at the speech of Goering and Hitler at the Preussenhaus, and two days later gave the other Vorstand members a confidential report on this meeting.

This document refutes this evidence because, at the same time, or rather, if I remember correctly, one day before Schnitzler reported about these speeches, they had already been published in the newspapers.

If I remember correctly, I may just add this. This speech was published in the Times, too. Unfortunately, I have not yet been able to get hold of this edition from the year 1936, but here we are interested in conditions in Germany. The document shows that this speech became known to the general public in Germany.

In this connection, I may refer you particularly to Page 21, where Hitler said in his speech to industry, "The word 'impossible' does not exist here". I may also remind you that Dr. Flick on the stand took this remark to show that Hitler's demands on industry were constantly increasing and constantly became more dictatorial.

As Document 14 and Exhibit 14, I offer an affidavit of the State Secretary of the Foreign Office, Dr. Richard von Kuehlmann, who was known as such before 1933. I believe that it is of special significance. Please consider that Dr. von Kuehlmann had nothing whatever to do with National Socialism. I shall quote:

"From 1899 until 1918, I was in the German Diplomatic Service; from 1907 until 1914 I was Embassy Counsellor at the German Embassy in London. My relations with prominent British politicians, among them in particular Winston Churchill, date back to this time. Not only did I maintain those relations after my retirement, but also after 1933".

MR. SPEECHER: Mr. President, the Prosecution objects to this affidavit on the grounds of relevancy. Whether or not Winston Churchill in 1937, before he had a position in the British Government, may have urged this particular man to join the Nazi party for any particular reason, seems to me utterly remote from any of the issues in this case.

DR. SIEGERS: Your Honors, the Prosecution has repeatedly made mention of the extent to which industry, and Farben in particular, supported National Socialism and Hitler. They have pointed out to what extent and under what circumstances various members of industry, and Farben, joined the Party to testify to their allegiance to the Party.

Other connections with various Party organizations have been expounded here at great length. If the industrialists and economists are to be reproached, or if this is to be evidence against them, it seems to me of great significance to determine what opinion was held in the year 1937 by such a clever man, - such a famous man, - as Winston Churchill. Therefore I ask that you accept this affidavit and

the decisive point is —

Mr. President, may I say just one sentence to explain the relevancy? I should like to quote a sentence from Page 2:

"After 1937 Churchill tried hard to persuade me to become a Party member. If people like me stayed away moderate opinions would never be voiced in the NSDAP, leave alone gain the upper hand. He told me that in political life it was at times impossible to avoid throwing one's pet ideas overboard sometimes. — "How often had he been forced to do this when entering a new cabinet; I was clinging too stubbornly to old ideas".

I believe in this connection it makes no difference whether Churchill was a member of the Government at that particular time or not. What I am interested in here is to show how a foreigner of the importance of Churchill, saw conditions in Germany, and that a foreigner like Churchill did not expect aggressive plans at that time, as Kuehlmann says in the preceding paragraph. This applies in the same way to the government members Chamberlain and Halifax —

THE PRESIDENT: If there is any reason to believe that this affidavit was a pattern of any very extensive quantity of evidence to be offered, the Tribunal would be rather inclined to survey this subject quite critically. But since it seems to be more or less of its own, and stand on its own bottom, as a single affidavit, we are hardly prepared to say that it might not possibly have some probative value, and the objection is overruled and it will be admitted in evidence.

We will indulge in the same privilege that counsel has from time to time used here, and say that that is not to be considered as a waiver. If there is too much of that, we might resurvey the subject, and might reach a different conclusion. Just for the present, the objection is overruled, and the document is in evidence for whatever it may be worth, if anything.

DR. SIEMERS: As Document 15, Exhibit 15, I offer the joint statement of Hitler and Chamberlain in Munich, of 30 September, 1939. It was accepted as Raeder Exhibit 23, at the IMT trial. This is the one joint declaration of Chamberlain and Hitler, according to which Germany and England declare that they will never again wage war against one another, and that the Munich agreement is to contribute towards securing the peace of Europe.

I offer this document in order to show that someone who was not directly connected with Hitler, could not suspect, in view of such a joint declaration together with foreign government members, what Hitler was intending and planning for that time, or a later time.

The next document is No. 16, Exhibit 16. This is Hitler's speech of 5 November 1937 to the Commanders in Chief in the Reich Chancellery. It was used as Exhibit 25-US in the IIT Trial, and it is one of the so-called key-documents of the IIT Trial. I should like to offer this and the following key-documents because in my opinion, according to the IIT Judgment, it is decisive whether or not one attended the meetings where Hitler spoke or gained exact knowledge of these records in some other way. This is, as I say, the basis of the IIT Judgment and can be understood only if one compares these documents with the IIT Judgment.

DR. SKEFFEL: Mr. President, particularly in view of the fact that the Prosecution's offer of "Fall Gruen" (Case Gruen), the plan and revised plan of Hitler and his military strategists to invade Czechoslovakia, at a time which I know you are advised of from both the IIT decision and from that document, and the fact that Dr. Siemer objected to that document, I'm somewhat at a loss to understand Dr. Siemer's theory now as to why the Schmitzler Documents 16 through 20 are relevant here. However, there is a further point I'd like to put before you, namely that the motion of the Defense to dismiss the indictment as to all of these defendants on Count 18—I think often referred to as the "von Mettler Motion"—and the Prosecution's answer thereto, have gone into the question of these so-called special meetings of the military strategists. And the Prosecution and the Defense have made their position concerning that point rather clear to Your Honors. Now, we don't know, in view of that, whether we should really make an objection to the individual documents or not. I just raised that for Your Honors' consideration because we were somewhat confused after the ruling on "Fall Gruen" as to just exactly what our position should be. We don't want to be in an inconsistent position, and, on the other hand, we think that that is probably more in the nature of brief material, as I shall suggest with respect to a number of other documents which Dr. Siemer has here, than it is in the nature of new proof which would have any particular bearing here at this time.

DR. SKEFFEL: Mr. President, may I answer Mr. Sprecher's remarks?

THE PRESIDENT: I think not, Dr. Siemers. I once had the unhappy experience of arguing with the Court, and I found out afterwards it was about to rule with me until I talked; and then it ruled against me. So perhaps you'd better not say anything.

The objection will be overruled upon this theory: that as to these matters, these exhibits—and particularly I'm speaking now of the one that is immediately before us, 16—may throw some light upon the factual background of the IIT Judgment itself. And I may say that it's the view of the Tribunal that so far as the Judgment of the IIT is concerned it speaks for itself, and we would take judicial knowledge or notice of it. But it's also our view that as to evidentiary matters that were in the IIT Case we would not take judicial knowledge of it, and that is proper, if the exhibits are pertinent as to any matter that's within the purview of this case, to offer them in evidence as exhibits in this case. Looking ahead, I may say that that is not the situation to one of your subsequent documents down here—No. 21—which appears to be, Dr. Siemers, and excerpt from the Judgment itself. That has no place in evidence before this Tribunal, because the IIT Judgment is before us; and as to that it should not be introduced in evidence. But since you have already had it processed and have it in your book you may mark it for identification only, if it is a matter of convenience for your use in arguing or briefing your case.

The objection to Exhibit 16 is overruled. You may continue.

DR. SIEMERS: Then, I offer Documents 16, 17, 18, 19, and 20, as Exhibits 16, 17, 18, 19, and 20, respectively. And according to the statement of the President, Document 21 will be marked Exhibit 21 for identification.

I should like to say merely a few words about these documents so that I may be understood. Prima facie Mr. Sprecher is not wrong if he says that I objected to the "Fall Gruen," but I believe it was logical. The legal questions in circumstantial evidence are difficult. The Prosecution had to prove that the "Fall Gruen" was known to the defendants, and I was to prove that they were not familiar with the "Fall Gruen." That is why I objected because the trial reveals that the defendants were

not familiar with the document. Now, it is similar with these key-documents. In my opinion, the Prosecution must prove, on the basis of the IIT Judgment, that the defendants were familiar with these key-documents, or attended the meetings. If I now attempt to prove that they were not present, then I do so by putting these key-documents in evidence because these documents contain lists of those present. The document itself shows that the defendants were not present. With respect to Document 16 I may refer to Page 23 where there is a list of those present. There are only five of the then highest political and military personalities; Blomberg, Fritsch, Raeder, Goering, and von Neurath.

MR. SPRECHER: Perhaps, just to save time by stipulation, if we haven't already made it clear by the answer to the so-called "von Mettler Motion," we now stipulate that none of these individual defendants attended any of these four conferences or the conferences referred to by these so-called four key-documents.

THE PRESIDENT: Very well. That is a saving of time and takes that issue out of controversy.

MR. SIKES: Then, I should like to ask Mr. Sprecher whether he is ready to stipulate also that none of the gentlemen had any knowledge of these documents before 1945.

THE PRESIDENT: Now, Mr. Sprecher may answer for himself as to whether or not he wishes or is willing to make any such stipulation.

MR. SPRECHER: Naturally I can't stipulate to that fact.

THE PRESIDENT: Very well. Go ahead, Dr. Sikes.

MR. SIKES: Then, this becomes a question of argument, aside from the fact that the Prosecution, according to the IIT Judgment and the principles of a criminal trial, is obligated to prove that the gentlemen had knowledge of these documents. The lists of those present show that there were always only the highest military and, in a few cases, for example, in the case of von Neurath, the highest political leaders.

The documents show that they were top-secret conferences with Hitler,

so that the Prosecution really would have to—

THE PRESIDENT: Now, Dr. Siemers, you have already indicated that which we think is clearly true. Your remarks now are purely and highly argumentative. We are only concerned now in getting the facts before us, and we have allowed what we think will be ample time for you to argue your case in due course. Please proceed with the introduction of your documents.

DR. SIEMERS: The next document which I offer is Document 22, an affidavit of Frau Albrecht, as Exhibit 22. This and the next two documents are offered to prove that in the second half of August 1939, Dr. von Schnitzler was not in Germany and consequently could not have heard anything of Hitler's speech of 22 August on the Obersalzberg. That is, by the way, the only meeting where there were a large number of people present, although they were only military men. At all the other meetings there only three, four, five, or six people present.

Frau Albrecht was the secretary, and her affidavit certifies that Dr. von Schnitzler, on the 12th of August 1939, went to Ascona and from there by car to Yugoslavia together with his daughter. She also says in the second paragraph, the last sentence, and I quote:

"In view of my husband's pessimism I was very impressed by the fact that Herr von Schnitzler carefree and firmly believing that peace would be kept, went to Yugoslavia in the middle of August for several weeks."

DR. SIEMERS: As Exhibit Number 23 I offer Document 23, an affidavit of Frau Bertha Boyer, also dealing with this trip abroad. Mrs Boyer testifies that Mrs. von Schnitzler left a few days before Mr. von Schnitzler -- that neither of them made any purchases of any sort which would have been natural if they had expected or been certain that a war was coming. She then certifies that Dr. von Schnitzler returned unexpectedly to Frankfurt at the very end of August. He was not expected back until September.

Document 24 Exhibit 24 is an affidavit of Frau Lilly von Schnitzler dealing with this trip abroad. I need quote only one sentence from page 2 the second sentence: "Early in the morning of 27 August my husband received a telegram signed by his colleague Waibel which recalled him to Frankfurt at once, without commentary. On the same day we had been invited to Castle Brdo for lunch, by Prince Regent Paul of Yugoslavia. I hurriedly drove my husband to the railroad station so that he might get to Frankfurt by the shortest route." The documents show that Dr. von Schnitzler could not have known anything and was in Yugoslavia and quite carefree. That ends my first document book. I shall begin Book 2.

Document 25 which I offer as Exhibit 25, is a report of the Chief of the General Staff of the United States Army, George Marshal, to the Secretary of War in Washington dated 1 September 1945. It was received in the DMT trial as Raeder Exhibit 19. I refer to page 9 where Marshal says that no evidence was found that the German High Command had had an all inclusive strategic plan. In order not to waste time I shall merely ask the Tribunal to take notice of the rest. Mr. Sprecher has just told me that this is on page 3 and 4 in the English. If an expert like Marshal says that the High Command had no such plan, one can hardly assume that the industrialists, who knew much less, had or supported any such plan.

Now I should like to offer some documents and at the same time make an

application. The Tribunal will recall that on 28 August 1947 I made an application that my client's affidavits be stricken or not admitted into evidence. I should be grateful to the Tribunal if now, when the trial has progressed somewhat, this ruling could be considered again and that I might offer the next documents in connection therewith. Document Schnitzler Number 200 I would like to offer as Exhibit Number 26. That is an excerpt from the transcript of the Flick trial of 6 November 1947 concerning the inadmissibility of affidavits of defendants. I should like to refer especially to the statement of Judge Richmond to the prosecution saying "In the State of Indiana the affidavit would not be admissible." The president says, "No, it would not be admissible at all in the State of New York either, because you have to produce the witness."

THE PRESIDENT: Does the prosecution object to that Exhibit?

MR. SPRACHER: Yes, Mr. President.

THE PRESIDENT: Well, that objection will be sustained. The part of the transcript of the Flick case that is offered as Exhibit 26 is not in the category of some evidence or proof of any fact that might properly be brought before this Tribunal. All that is disclosed by this part of the transcript is some colloquy between members of the Tribunal and counsel in the course of that trial -- we would take judicial notice of that. If it is not a ruling and is not evidence of some facts it has no place in this trial. So, counsel for the defense will not be hurt by his own theory that if it establishes a precedent or shows a ruling of the Flick case it's before us anyway without any burdening of the record in this case. The objection is sustained.

DR. SIEMERS: Your Honors, then I merely want to ask, with your permission, to give the document a number for identification, because I should like to use it for legal argument and it would then be easier.

THE PRESIDENT: It has a number 26 but the objection to it is sustained and it is proper legal argument. You don't need to have it even marked for identification. I may say that the part of it that you

quoted here doesn't disclose very much except some talk between counsel and members of that Tribunal. But we need not worry ourselves about that now. The objection is sustained. The document will carry Document Number 26.

JUDGE MORRIS: I have had something on my mind to say for some little time with regard to documents that have been given numbers for identification only and not introduced or received in evidence. I am afraid that there may be some misapprehension developed that will cause some confusion in connection with briefing and arguing. Now when a document is marked for identification only and remains that way in the record, it's identified, filed with the Secretary General, but it does not become evidence. It is not before the Tribunal for consideration. Therefore it is not proper to base any argument on that document, either in oral argument or in the briefs. There is one exception to that rule -- at least it should be stated as an exception to avoid confusion. That is where some document has been identified but the contents of that document are the proper subject of judicial notice on the part of the Tribunal. In that case, of course, the attention of the Tribunal may be called to it either in oral argument or in brief, and counsel may argue that, not because it has been identified by a number in this record, but because it is a document of such importance and import that the Tribunal takes judicial notice of it. But unless you are dealing with that kind of a document, the giving of identification numbers does not bring the document before the Tribunal for consideration, and your reference to such a document in argument, either by brief or orally, is improper and, of course, will be entirely wasted, because the Tribunal will not consider any argument based on documents presented for identification, with the one exception that if the contents of the document are something that the court will take judicial notice of, then it could be presented and argued to the court in any event and the identification number will not destroy the status of the document as being one of which we would take judicial notice. I have wanted to make these

remarks for some time because I am afraid, at least on the part of some counsel, there has been the misapprehension that when a document is identified only and in the record that it may be the basis of discussion.

THE PRESIDENT: I may say that what Judge Morris has said expresses the views of the Tribunal as a whole and I am hopeful that it will be of help in avoiding any misunderstanding with reference to the state of our record. You may continue, Dr. Sieners.

DR. SIEMERS: If I understood the Tribunal correctly then in such a case as this I should ask you to take judicial notice of the transcript of the Flick Case so that I will be able in my argument to refer to it.

JUDGE MORRIS: Dr. Siemers, this is a very pertinent question because this is a good illustration of what I have been trying to make clear. The Judgment in the Flick case or any rulings that have been made by the Tribunal in the Flick case are proper subjects of judicial notice. Your Exhibit 26 does not purport to be a ruling of the Tribunal, but merely some colloquy between the members of the Tribunal. It may be that it ultimately resulted in a ruling and if it did it's proper for you to call our attention to that ruling, either in oral arguments or in briefs, whether it appears in your document book or not, but strictly, your Exhibit 26 which you have identified and which has not been introduced in evidence, not being a ruling or judgment of the Tribunal in the Flick Case, is not a proper subject for our consideration. So that we are not interested in what Judge Richmond said or what the presiding judge said as individuals in that case and apparently that is all that your Exhibit 26 discloses.

Now, have I still left the matter confused? If it is, ask another question.

DR. SIEMERS: I believe it is quite clear. I merely brought this up because, naturally, American trial procedure is not so familiar to the German defense counsel and, therefore, the opinion of two American judges here in this building seemed to me of some significance. I should merely like to mention if this conversation between the prosecution and the Flick judges led to no decision that was because the prosecution in the Flick case did not offer any more affidavits of defendants, as far as I recall, with the exception of some short affidavits which were stipulated by the Prosecution and the Defense. Therefore, the Tribunal had no need to rule on this discussion.

JUDGE MORRIS: I see your point, but still, as a matter of the record, it isn't something that we can take judicial notice of, since it isn't a

ruling and since it isn't a part of the Judgment.

DR. SIEMERS: I understand. I beg your pardon.

Document 201 I offer as Exhibit 27.

THE PRESIDENT: We can save a bit of time here. I may say to you, Dr. Siemers, that that is peculiarly the kind of a matter that the Tribunal would judicially notice without proof. It purports to be a proclamation of an official governmental body, a proclamation of Control Council #2. That does require no proof whatever. We'd notice that when it's called to our attention and we'll therefore take the liberty of giving it #27 and marking it for identification, and to illustrate the point that Judge Morris undertook to make a little while ago, I'll say to you that that requires no proof whatever and may be argued and briefed by just referring to it. We might, at some time, ask you to go out and find the book and bring it to us just as a matter of convenience so that we have it, but it's before us, ipso facto.

DR. SIEMERS: The next document, #26, I offer as Exhibit 28. That is the record of the interrogation of the so-called witness Dr. von Schnitzler by Mr. Sprecher in Nurnberg on 16 February 1947. The Tribunal will remember that in the session of 2 September 1947 this record was offered but it was not offered as an exhibit. I should like to put it into evidence now, as Exhibit, 28 as proof that the interrogation was not in the proper form. As I said at that time, it is difficult for me to know American Trial principles in this field and, therefore, as I said at the time, I have to reply on what the American lawyers tell me. I was told that this was an improper interrogation in the sense legal procedure, because at several points it contains improper statements. On the one hand Dr. von Schnitzler was already supposed to be indicted and, yet, on the other hand, he was referred to the provisions of the Control Council law that he was obligated to testify or else be liable the punishment and in the third place because he was told, and you will find this verbatim in the index, "The law concerning refusal to make a true deposition is rather severe with regard to per-

jurors or persons whose statements are not "true", and again: "Certain punishments for perjury may be more severe than those for participation in German militarization." This latter remark meant to Dr. von Schnitzler that he had to be more afraid of correcting former testimony than of any admitting to aided Hitler.

MR. SPEECHER: Mr. President, I take severe exception to that type of remark.

THE PRESIDENT: Well, that is argumentative and it will be postponed until we come to the time for the argument and counsel may argue it at that proper time.

The document is in evidence, Dr. Siemers, as your Exhibit 28.

MR. SPEECHER: Mr. President, I have one question. It is a question as to whether I should now particularly in view of that remark of Dr. Siemers' process what was already read into this record once before from an affidavit, at the time when Dr. Siemers made his original objection to the introduction of any Schnitzler affidavits into evidence. At that time, Your Honors, you will recall that I read further parts from the interrogations of Dr. von Schnitzler where on several occasions he stated that he had made all the corrections which he thought were important and I will be very glad to have that certified to, but if you will take - if Dr. Siemers will deny that or does deny it then I will be glad to have another document submitted.

THE PRESIDENT: Just a moment, counsel, let's keep this procedure in the proper channels. Are the things you are referring to now in evidence, Mr. Prosecutor?

MR. SPEECHER: Mr. President, at the time Dr. Siemers read certain parts of the Schnitzler interrogation and I read other parts. I had the original, initialed by the defendant von Schnitzler, in my hand at the time. The defendant von Schnitzler has copies and always has had copies of those interrogations.

THE PRESIDENT: I am just concerned with just one thing now and that is burdening the record by getting the same things in twice. If it's in evidence there's no use of your burdening the record by putting it in again and, after all, I suspect the orderly procedure is to postpone that until you get to your rebuttal and that will give you time to determine what you have in the record and what you desire to offer, but I don't think the Tribunal ought to anticipate and make rulings in advance of offers. You can determine whether or not you are satisfied with the record as it stands or whether or not you have proper and competent rebuttal to offer. If you do, you can offer it and we can pass on the competency of it at that time.

MR. SPRECHER: I can state now, Mr. President, in the absence of any challenge, that my statement as counsel in this record was correct, a correct reading of the original interrogation record. We certainly do not intend to burden this record further. If Dr. Siemers challenges the accuracy of my reading of that record before this Tribunal, then we would take another course.

THE PRESIDENT: Now, counsel, don't let's get confused on something now. At this moment I have no independent or dependable recollection as to what you are talking about. If you read something from some purported statement or affidavit in the course of a legal argument, don't be misled into thinking that that is evidence before this Tribunal. You may have, along in connection with a legal argument, read something from an affidavit. I don't want you to construe any ruling that this Tribunal has made that that suffices as proof of a controverted fact before the Tribunal. I am equally as firm in the view that the Tribunal ought not to be asked now to anticipate a question that may arise or express an advisory opinion as to whether evidence would be competent. Dr. Siemers is now introducing his documents. At the time he concludes them you can survey the state of your record and act as you see fit as to whether or not you have some rebuttal

to this, but I don't want you to be misled in some remark that the Tribunal, or I may have made for the Tribunal, in connection with us accepting generally statements of counsel. In administrative matters, routine matters, I think I do recall saying that I assume that you all tell us the truth unless it is challenged, but that is no rule with respect to the introduction of evidence.

MR. SPRECHER: Actually, it was intended to be a reply to only what Dr. Siemers had said because I am quite content with the excerpts which Dr. Siemers has put in.

THE PRESIDENT: Very well.

DR. SIEMERS: Mr. President, I hope I haven't made a mistake, but I thought, judging by the previous ruling, that it was permissible with respect to records or other documents to offer only excerpts, the ones that are significant for me.

THE PRESIDENT: That is correct. That is right.

DR. SIEMERS: Then I offer Document 202 as Exhibit 29. It is an excerpt from the Judgment of Military Tribunal I in Case 8, 10 March 1948.

THE PRESIDENT: That is marked for identification only because it is the kind of a document that the Tribunal would judicially notice.

MR. SPRECHER: Mr. President, may I merely ask you to put a question mark beside the index?

THE PRESIDENT: Very well.

DR. SIEMERS: The next document, #27 I offer as Exhibit 30. This is an affidavit of Mrs. von Schnitzler. I need not quote from it. I should merely like to make one remark in view of the session of 28 August and 2 September.

I was not permitted to bring out at the time the question of pressure in 1945, and I did not offer any evidence. But I do believe that it is of a certain interest to show what conditions were at the time, and therefore I want to offer this document which does not concern my client but concerns Mrs. von Schnitzler, her arrest while she was visiting her husband by a member of the American occupying forces, Mr. Sachs, who was at that time calling himself Troubetzki.

MR. SPRECHER: Mr. President, we think that is an affidavit of the so-called "smear" variety and we make an objection to it. The fact that Mrs. von Schnitzler claims to have been searched in a rather undignified way after she had hidden something in her blouse, we think, is a long way from having any relevancy to any question in this case whatsoever.

THE PRESIDENT: Well, now, the Prosecution is correct in this regard. This Tribunal, as such, of course, is not concerned with respect to any improper treatment that was accorded the wife of the defendant. The only way that this would be material from our standpoint would be whether or not the incidents recited in the affidavit took place in the presence of the defendant or whether he knew of the incident at the time or before he was interrogated. If it occurred in his presence, or if he had information later that this had occurred, it might be a circumstance to be taken into account and consideration as to whether or not he was under any duress or coercion at the time he was interrogated. On the affidavit as it stands, the Tribunal would necessarily be required to reject it. But if you desire to make any supplemental proof with respect to it to the effect that the defendant had knowledge of these facts at the time he was interrogated, then the treatment accorded a member of his family, especially the relationship of a wife to a husband, is a circumstance that might throw some light upon whether or not he was under undue pressure and influence at the time he was interrogated by the American representatives.

Is that clear to you, Dr. Simers?

As matters now stand, we will mark that document for identification, which under the ruling as indicated by Judge Morris means that it is not before the Tribunal for any purpose except that it is preserved in the Secretary's office, and if you desire to offer any additional evidence that will connect it with this defendant in this case, you may do so.

DR. SIEMERS: Thank you.

THE PRESIDENT: And then, if you do that, you should re-offer the document so that it will get in evidence. It is just preserved for you here until you can determine whether or not you can make proper use of it.

DR. SIEMERS: I understand.

The next document, No. 28, I offer as Exhibit 31. It is an affidavit of Willy Plaines concerning Farben exports in the field of dyestuffs in 1938. In circumstantial evidence only indirect evidence is possible forms, since I must give negative proof. I want to offer this to show what the dyestuffs turnover in Farben was. It says there and I quote from page 34 of the document book:

"The documents at the Control office, I.G. Farbenindustrie A.G. show that out of the turnover of I.G. Farbenindustrie in dyes in 1938, of 57,368,613 kilograms -- 21,398,464 kilograms were sold in Germany with gross proceeds amounting to 120,814,583 marks. Whereas, 35,972,149 kilograms were sold for export with gross proceeds amounting to 179,124,593 marks."

That means that about 62.5 per cent of the dyestuffs business was exported and only 37.5 per cent was sold in Germany. That could be considered as circumstantial evidence that Farben could not have any interest as far as dyestuffs are concerned, in getting involved in a war and thereby destroying its exports.

Document 29 is an affidavit of Dr. Gustav Kuepper, which I offer as Exhibit 32. This deals with Farben's reinsurance abroad. Dr. Kuepper says that the re-insurance was placed through the big english firm Willis Faber

in London, with numerous foreign firms, mostly English.

On page 36 of the book, in the last paragraph, I should like to read two sentences. "These reinsurances were still in existence on 3 September 1939, that is, at the outbreak of the war. I have never got a directive to seek a substitute for the reinsurance taken in England."

Dr. Kuepper was a co-worker of Dr. von Schnitzler and if they had been planning a war, they would not have had their extraordinarily high holdings insured in England at the time of the outbreak of war.

MR. SPRECHER: Mr. President, I have tried to figure out some possible basis of the relevancy of this document, and I still haven't seen it, I mean I don't see what it proves that might be of interest to any of these defendants, I would be glad to know.

THE PRESIDENT: The substance of that, or at least a part of that affidavit, is already in evidence. The facts with reference to insurance might have some probative value as a circumstance to show what the defendants knew or what they thought the course of events might be. The objection is overruled.

DR. SIEMERS: We now come to a new subject, The Verborat, the Advertising Council, a point which is also cited by the Prosecution as circumstantial evidence for the knowledge of Hitler's plans for a war of aggression. This is a point where I had to say to Mr. Sprecher that I did not understand him.

As Document 30 I offer Exhibit 33, the law concerning economic advertising of 12 September 1933, according to which the Advertising Council was set up. In paragraph 1, on page 39, it is said what the Advertising Council, was to be. It says: "For the purpose of uniformity and efficiency the entire public and private solicitation, advertisement, exhibition, fair and promoting business is subject to the supervision of the Reich. The supervision is exercised by the Advertising Council of the German economy." I can add nothing to that because I do not understand what this has to do with war of aggression. I can merely offer my Document 31 and ask the Tri-

bunal to accept this as Exhibit 34.

It is an affidavit of Professor Dr. Heinrich Hunke, who was the business manager of the Advertising Council of German Economy and permanent deputy of the president of the Advertising Board of German Economy, and was therefore best informed about the Advertising Council. He says in the second paragraph that the Advertising Council was created and was charged with "the supervision and encouragement of advertising — newspaper and poster advertising, fairs and exhibitions". He says, and this is perhaps important for the Prosecution, the "Economic Information Service remained with the Foreign Office, the political economic competences with the Reich Economy Ministry."

On page 43, in the last paragraph, you find the statement of Prof. Hunke about the duties of the Advertising Council which were, and I quote: "Removal of inconveniences in the advertising business which had long been recognized as such and combatted, organization and execution of joint advertising in connection with business and advertising groups, of German products for export purposes."

I skip the next sentence and continue at the top of page 44: "The elimination of unfair competition and unclean advertising methods brought close collaboration with associations of other countries, especially with associations of advertisers in England, U.S.A., Sweden, France, and resulted in the creation of the International Advertising Board at the International Chamber of Commerce in Paris."

The next paragraph emphasizes that there were no political tasks or political propaganda. He then says that Schnitzler, Gattineau and Mann were members of the Advertising Council, and at the bottom of the page he says he knows of Mr. von Schnitzler that he was chairman of the Fair and Exhibition Committee of German Economy which was located at the Reich Group Industry, and that became a member of the Advertising Council. Mr. Mann was a specialist in the field of medicine advertising and market research."

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THE PRESIDENT: Are there any announcements before we recess for the day? If not, the Tribunal is in recess until nine o'clock tomorrow morning.

(The Tribunal recessed until 0930 hours, 30 April 1948.)

CERTIFICATE OF COMMISSIONER

Under directives of United States Military Tribunal No. 6, testimony of witnesses listed below was required to be taken before the undersigned Commissioner. Pursuant thereto the said Commissioner has conducted hearings at which the following witnesses have fully testified:

<u>Date</u>	<u>Name of Witness</u>	<u>Official Transcript</u>
8 April 1948	Walter Warlimont	10875-10907
9 April 1948	Kurt Krueger	11128-11163
12 April 1948	Karl Weber	11165-11175
12 April 1948	Paula Ester	11177-11199
13 April 1948	Ernst Struss	11293-11338
14 April 1948 &	Christian Zahn	11444-11490
15 April 1948	" "	11587-11612
16 April 1948	Bernhard Schoener	11706-11723
19 April 1948	Adalbert Feindal	11827-11841
20 April 1948	Josef Grobel	11842-11860
20 April 1948	Gustav Pistor	11861-11878
21 April 1948	Emil de Haas	12098-12128
21 April 1948	Heinrich Schuh	12129-12140
23 April 1948 &	Heinrich Schindler	12337-12370
28 April 1948	" "	12707-12777
26 April 1948	Walter Kikuth	12461-12498
26 April 1948	Hans Sauer	12500-12512
27 April 1948	Wilhelm Duellberg	12598-12621
29 April 1948	Theo Goldschmidt	12871-12909
29 April 1948 &	Anton Reithinger	12910-12953
30 April 1948	" "	13075-13092
29 April 1948 &	Rudolf von Spretty	12954-12960
30 April 1948	" "	13065-13075
30 April 1948,	Rudolf Schmidt	13093-13133
5 May 1948 &	" "	13620-13629
6 May 1948	" "	13651-13719
3 May 1948	Wolfgang Alt	13246-13269
3 May 1948	Carl Gadow	13271-13291
3 May 1948 &	Kurt Hartmann	13292-13316
4 May 1948	" "	13412-13450
4 May 1948	Fritz Dion	13450-13460
4 May 1948	Kurt Eisfeld	13461-13479
4 May 1948	Adolf Taub	13480-13489
5 May 1948	Ernst Struss (for Pres.)	13566-13619
6 May 1948 &	Werner Schmitz	13720-13735
7 May 1948	" "	13861-13891
10 May 1948	Max Winkler	14173-14181
10 May 1948	Fritz Hirsch	14195-14209
10 May 1948	Ernst Kraschewski	14210-14220
10 May 1948 &	Franz Fuerstenberg	14221-14245
11 May 1948	" "	14377-14384
11 May 1948	Heinz Sawoleberg	14387-14424
11 May 1948	Karl Ranschmidt	14425-14439
11 May 1948	Reinhold	14440-14455
10 May 1948	Friedrich Selcher	14482-14494

During the said proceedings the following exhibits have been offered in evidence:

PROSECUTION EXHIBITS

<u>Exhibit</u>	<u>NI No.</u>	<u>Official Transcript</u>
2302	PS 2353 C	10899
2303	L79	10904
2304	11036	11145
2305	11034	11182
2306	15070	11183
2307	11236	11302
2309	11232	11312
2311	15062	11327
2312	15063	11330
2314	11257	11468
2315	13524	11473
2316	11256	11473
2317	11251	11485
2318	11252	11476
2319	11014	11482
2320	11039	11834
2321	13084	11848
2328	10532	12615
2329	10528	12616
2323	10907	12706
2330	13525	12733
2331	15021	12878
2332	3763	12915
2333	15115	12921
2334	15116	12923
2335	8647	12927
2336	15132	12933
2337	1514	12942
2338	11098	13106
2339	13534	13111
2340	15215	13126
2341	15260	13620
2342	15173	13286
2345	7637	13728
2346	7666	13730
2352	15290	14382
2353	15296	14392

I, the undersigned Commissioner, do hereby certify that the aforesaid official transcript pages comprise a full, true and correct report of such proceedings, testimony and evidence heard and recorded therein before me.

Dated at Nurnberg, Germany, May 28, 1948.


 JOHNSON T. CRAWFORD
 Commissioner of Tribunal No. 6

Official Transcript of hearing before a Commissioner for Military Tribunal VI, Case VI, in the matter of the United States of America against Karl Krauch et al, defendants, sitting at Nuernberg, Germany, on 29 April 1948, Commissioner Johnson T. Crawford presiding.

THE MARSHAL: The Commission for Tribunal VI is not in session.

MR. BACHEM: Dr. Bachem for Dr. Ilgner. I am calling the witness Dr. Anton Reithinger. The witness is already on the witness stand.

ANTON REITHINGER, a witness, took the stand and testified as follows:

THE COMMISSIONER: The witness will raise his right hand and take the oath. "I swear by God, the Almighty and Omniscient, that I will speak the pure truth, will omit and add nothing."

(The witness repeated the oath.)

THE COMMISSIONER: The witness will be seated. You may proceed with the examination.

DIRECT EXAMINATION

BY DR. BACHEM:

Q Dr. Reithinger, you made some affidavits for the defense of Dr. Ilgner. They are the following affidavits. In Ilgner Document Book 2, Document No. 34, Exhibit 37 --

MR. AMCHAN: If Your Honor please, defense counsel conferred with Judge Shake in chambers and as a result of a discussion and agreement with counsel we would request that we suspend examination of this witness for the time being and put on the defense witness Goldschmidt at this time and after the conclusion of the examination of the witness Goldschmidt then we will proceed again with the examination of this witness.

THE COMMISSIONER: Is that satisfactory with defense counsel?

DR. BACHEM: Yes, sir.

THE COMMISSIONER: All right. This witness will be withdrawn

and another witness will be called. Mr. Witness, you may be excused for the time being.

You may proceed.

DR. BERNDT: Dr. Berndt for the case of Degesch. Mr. Commissioner, the witness Dr. Goldschmidt is at the disposal of you, Mr. Commissioner.

THEO GOLDSCHMIDT, a witness, took the stand and testified as follows:

THE COMMISSIONER: The witness will raise his right hand and be sworn. "I swear by God, the Almighty and Omniscient, that I will speak the pure truth, will omit and add nothing."

(The witness repeated the oath.)

THE COMMISSIONER: The witness will be seated.

DIRECT EXAMINATION

BY DR. BERNDT:

Q Doctor, will you please state your name again?

A Theo Goldschmidt.

Q When were you born?

A 11 March 1883.

Q And where are you living?

A I live in Essen.

Q What is your profession?

A I am a chemist by profession.

Q What is your position at present?

A I am president of the Vorstand, that is General Director of the Theo Goldschmidt Aktiengesellschaft (Shareholders Company).

Q Do you have any other positions in public life in the field of chemistry?

A Yes, I am President of the Landesverband Nordrhein, the Economic Association, the Economic Group Chemistry. Apart from that, I am Deputy President of the Economic Group Chemical Industry for

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the British Zone. Apart from that, I am the President of the Chamber
of Commerce of the cities Essen, Muehlheim, Oberhausen, zu Essen.
That is enough.

Q Doctor, you made an affidavit for this trial. Do you have that affidavit in front of you?

A I have the affidavit in front of me.

Q Would you please look at figure 3 of the same?

A Yes.

Q In this affidavit, you say that the function of the Verwaltungsausschuss of Degesch consisted not so much in supervising the business management but in voting for the interests of the three partners of the Degesch--that is, the I.G., the Degussa, and the Theo Goldschmidt AG.

A May I perhaps formulate that a little clearer? The Verwaltungsausschuss never supervised any details of the business management. This was obvious because of the choice of the members who were the heads of the firms of the three partners. The Verwaltungsrat, (Administrative Committee) therefore, did not work as a board of directors works in the States. It did not work like a board of directors. They handled it as is customary in Germany in many cases, by having a trusteeship company supervise the business once a year, which fact was confirmed by each executive member of the Verwaltungsausschuss. A certain continuous supervision by the managers existed, owing to the geographical closeness of the Degesch and the Degussa, from which the Degesch originated, as is known. Concerning the supervisory power of individual members of the Committee, not only the management of the Degesch but the Degussa management was sensitive too. For example, at the beginning of our cooperation, I personally held the opinion that the organization of Degesch could be simplified greatly by discontinuing the subsidiary plants. My suggestions for the reorganization of Degesch however, at the recommendation of Degussa, were refused by the Verwaltungsausschuss because the Degussa considered my suggestion a hint of mistrust. Apart from that, of course, they did not want that previous approvals they gave to former

collaborators in the companies of Hertlingler and Tesch and Stabenow should be endangered by this.

Q One final question. We heard here that the zyklon was a very dangerous product, a dangerous poison. Does one not always have to count on the fact that criminals might misuse it and would this fear not have imposed the duty on the members of the Verwaltungsausschuss to take care of this, to whom zyklon was delivered?

A Of course zyklon—that is, prussic acid—is a very dangerous poison. Therefore, strict security regulations had to be followed by the Degesch, but it was an insecticide which had been used for decades. It had been proven and as far as I know it was never used for criminal purposes. The idea of a criminal misuse was quite beyond our imagination and our experience. The situation can be compared to the scale of other poisons. Regulations by the authorities have to be followed very strictly but these cannot always stop misuse. How strict the regulations by the authorities were when selling poison gases, my company and I personally experienced when we founded the T Gas Company in 1929, and these difficulties were the main reason for the fact that we in the T Gas Company ceased to be independent and affiliated ourselves to Degesch because all health authorities knew and approved of them.

DR. BERNDT: Thank you. I have no further questions.

CROSS EXAMINATION

BY MR. MINSKOFF:

Q Mr. Witness, you mention in your affidavit that during the period of the National Socialist regime you were faced with political difficulties. Will you explain the reason for the political difficulties and the nature of those difficulties?

A The reason for the difficulties was, first of all, that neither I nor my brother, nor the most important cooperators were close to the Party. But the difficulties did not result in the fact that I

lost my position but they mainly consisted of the fact that I had a great number of unpleasantnesses caused by the local authorities of the Party.

Q Well, what sort of thing, for example, occurred to you which you refer to as "political difficulties?"

A In 1933, I had already for seven years been the Treasurer of the Association of German Chemists. In 1934, I had to give up this position to a well-known National Socialist, Staatsrat Schieber, and I had to leave the Vorstand of Association of German Chemists.

Q What reasons were given you for asking you to leave?

A It was desired that the Vorstand of the Association of German Chemists should mainly consist of Party members.

Q In other words, there wasn't any particular discrimination against you; it was merely that some other person who was more important in the Nazi regime took your position, is that right?

A Yes.

Q Now your factory, your enterprise was rather prosperous all during the Nazi regime wasn't it, in spite of your difficulties?

A I could not say that in general.

Q Well, it was quite profitable, was it not?

A Although our business reports and our official balances, expressed in paper marks, might have given the impression of certain progress.

Q But that would be true of everybody in Germany at the time -- the same paper marks that applied to all other firms -- but you were making a very profitable business during the Nazi regime, were you not?

A Our business would probably have succeeded better without National Socialism; in particular, because we would have been able to regain our prestige which we had abroad before 1914.

Q Now you create the impression in your affidavit that you weren't trusted by the Nazis because of the fact that you weren't with them. Now it's true, is it not that you were even permitted to carry a gun from '33 on to '44, isn't that right?

A I owned a license for a weapon; I don't know for how long; but in the fall of 1944 this license for a weapon that is after the attempt on Hitler -- this license was taken away from me.

Q Yes, but the question I put to you was that all during the Nazi regime from '33 right to '44 you were permitted to keep this license and keep the gun, isn't that true, in spite of the lack of trust they had in you?

A Yes.

Q Now you state in your affidavit, Mr. Witness, that the function of the Verwaltungsrat--of the Administrative Committee--consisted less in supervising management than in adjusting the interests of the three partners. Now if that is so, Mr. Witness, how do you explain the fact that even though you and your firm were a partner in Degesch you had difficulty in obtaining information from the Degesch firm?

A We had no difficulties in obtaining information. We did not try to obtain information. We merely adjusted ourselves to the desire of our partners, after we had tried once during the early 1930's to exercise more influence, and we did not succeed.

Q Well, you did explain, did you not, that the two big partners, Farben and Degussa, could always have all the information they wanted but you couldn't get the information you wanted because you were just a small partner?

A No, I never complained about that. I do not know that they received more information than I did.

Q Mr. Witness, I show you NI-15021, which is offered as Prosecution Exhibit 2331, and ask you if that refreshes your recollection as to whether or not you complained that the two big partners could always cover themselves.

A May I just look at this document? This concerns a letter wherein I ask for a reply to a suggestion and expressed my disapproval that I had not yet received the reply. I received the reply very soon after that warning.

Q Well now, Mr. Witness, when you state that consider

the small participation of your firm, the management of Degesch is of course covered if it agrees with the two big partners, aren't you in fact saying that the management is controlled by the two big partners?

A No, I do not say that. I merely say that it could have occurred very easily and that was my suspicion at the time-- that the management discussed the matters with the two major partners and they felt that they were justified because they had the approval of 85 percent. I wanted to point out that I demanded that I be informed about such discussions, and they did so immediately.

Q Now, Mr. Witness, isn't it a fact that your differences were never really ironed out in the Verwaltungsrat, but on the contrary the two big partners, I.G. Farben and Degussa, even denied you access to the more confidential information?

A At any rate, I did not become conscious of that; I did not notice it.

Q Mr. Witness, I show you Degesch Document No. 47 which is Defense Exhibit 13 for Degesch, and ask you whether that refreshes your recollection as to whether you were in fact denied access to information concerning Degesch?

A On one occasion at the beginning of our cooperation in the middle of the 1930's, I had a difference with them because the limitation between the activity of the I.G. Farben and Degesch in my opinion was not running in the proper manner. Concerning that question, at the time in 1935 or '36, the two big partners outvoted me, but this was a matter which occurred in '35 or '36, and which was not settled at first but only later on in the Verwaltungsrat where it was settled.

Q Just so that record won't have any lack of clarity on this point, is it your testimony, Mr. Witness, that after that time you had no trouble at all in getting the detailed information as to the Degesch business?

A I have already said that I adjusted my attitude to the conditions that existed. You must remember that the Degesch was not a very important company. Our profit from the Degesch was at the most 15 to 30,000 marks a year, and I could not dedicate a great deal of my time to this company, just as the other members of the Verwaltungsausschuss -- the administrative committee-- who spent even less time on the Degesch; because I know from various statements that the Degesch as well as the Degussa considered me to be a man who was particularly interested in the Degesch. I must conclude from that that the other members of the Verwaltungsausschuss were less interested in the Degesch than I was.

Q Now, Mr. Witness, let's get back to the question. The question was this: after this difficulty, back around '35 or before, did you or did you not have complete access to all the information of the business of the Degesch?

A No, but every year I received a fairly extensive business report and every year I got a statement by the president of the Verwaltungsausschuss that the business of the Degesch was being checked by a recognized trusteeship company, and were in order.

Q In other words, there was an agreement then that you were then deprived of access to detailed information concerning Degesch from that time of your first difficulty on, by the two big partners?

A No.

Q All you received were those reports at that time, is that right?

A No, I don't believe that the other members of the Verwaltungsausschuss received more than I did; at any rate, I have no reason to assume that.

Q Well, who would have the information of the actual

business and facts of Degesch?

A The management of the Degesch.

Q Who is the management?

A Until 1939, that was a Mr. Stiege.

Q Who was it after 1941?

A I believe after 1939 already it was a Dr. Peters.

Q Now did Dr. Peters own any part of Degesch?

A No.

Q He had no stock interest?

A No.

Q He was just an employee?

A He was director, the business manager.

Q That's right, he received a salary for his work?

A Yes.

Q And who appointed him?

A The partners.

Q What's the point we are getting back to. Now you say that the only person who has any information about Degesch is just an employee who manages the firm and the partners have no access to the information. Is that your testimony?

A I did not say that. We were satisfied with the detailed report which the business manager issued every year. In Germany, this is generally done in that manner, if the companies affiliated in order to conduct a business...

Q Mr. Witness, I don't want a lecture on German companies. I asked you for a factual question, and a factual answer is all we need for the record. I want to know if the partners had available to them the detailed information of Degesch or if that was only available to the employee Peters?

A No. If we in the Verwaltungsrat committee would have wanted some detailed information, of course we were able to obtain it at any time.

Q Thank you very much. Now, Mr. Witness, in your affidavit you describe the function of this Verwaltungsrat of administrative committee, and you say that it is explicitly defined in Article IV of the agreement concluded between Degussa and Farben in June 1930. Isn't that right?

A In June 1930? As far as I know, my company only joined in the fall of 1930.

Q Your affidavit refers to the agreement, Article IV of the Agreement, which was concluded between Degussa and Farben.

A Yes.

Q Now you state that that article defines the functions of the administrative committee.

A Yes.

Q Now, Mr. Witness, that was even before your firm was

in the Degesch firm?

A Yes.

Q Now wasn't there any new agreement after that?

A I believe our rights and duties were layed down once again in a new agreement in the year 1936.

Q That is right, so that, Mr. Witness, the paragraph you are referring to was completely superseded and null and void by the time you got into the firm?

A No, it did not become null and void. After my firm joined, I also became a member of the Verwaltungsausschuss with the same rights as the other members of the Verwaltungsausschuss.

Q Well, when the new agreement was drawn, don't you recall that in that new agreement it is stated that all the contracts concluded between the parties in 1930 were rendered null and void as of July '36 and replaced by the new agreement which redefined the duties of the administrative committee?

A I do not remember the details of the agreement of 1936 but the agreement of the year 1936, as far as I remember, did not influence the manner of our cooperation which had become established, after five or six years. I do not remember that during our discussions we ever had to go back to that because the cooperation went very well.

Q Mr. Witness, you may state anything you wish as to what the facts were after the agreement, but in your affidavit you are referring and calling the Court's attention to the fact that an agreement back in 1930 defined the rights of the partners. Now I want to ask you this question: before you made that affidavit, didn't you check to see whether the agreement in '36 didn't completely supersede the one you were citing in your affidavit to this Court?

A Yes, of course; before I made my affidavit I looked the agreements once more and I found that Paragraph IV of

the old agreement was not contained in the agreement of 1936. When I made the affidavit at the end of last year, I was really surprised by this fact because the activity of the Verwaltungsausschuss, did not change, owing to the change of this agreement.

Q Mr. Witness, at the time you made this affidavit, you knew it was going to be introduced in this court, and you took an oath saying what was therein was true; you now say you read the later agreement and you knew the fact that the first agreement which had the Paragraph IV, the later agreement omitted that Paragraph IV, and knowing that fact you recite Paragraph IV as stating the duties and functions of the Verwaltungsrat.

A Yes.

Q Do you want the Court to believe that Paragraph IV which was expressly made null and void was actually still binding?

A In my affidavit I say verbally: "although this paragraph was not contained expressly in the agreement of 1936, this function of the Verwaltungsausschuss remained predominant after that time." I don't think I could express myself clearer.

Q Mr. Witness, in your affidavit you say the details of the Degesch business were never discussed by the Verwaltungsrat. Now isn't it true that for example in the meeting of 1939, in which you were represented, details even including profit calculations were discussed?

A Yes. When we gathered for these administrative, then the business management gave us lectures about the balance, about the profits and the loss, about the development of the individual part of the business, about the conditions at home and conditions abroad on the market, and they always

told us what technical improvements had been made during the last year and what they hoped would be result of this progress. The meetings always took several hours and they were very interesting and they gave a real survey which was sufficient for us partners, so that during the year there was no reason to ask about any details.

Q Well, at the end of the year when you received this report, were the underlying figures and underlying statistics made available to you so you could judge whether the report was accurate or whether it was inaccurate?

A We did not check up whether it was incorrect or correct. The Treuhandgesellschaft -- the trusteeship -- handled that.

During the meetings we could suppose that the figures were correct because they had been checked upon by the trusteeship company. The care with which we chose our manager helped us to make sure that these gentlemen did not lie to us.

Q What voice did you have in choosing Mr. Peters?

A I remember, except for one meeting about which you have already asked me during the 1930's, I do not remember that any voting was done in the Verwaltungsausschuss. I believe that we made our decisions unanimously every time.

Q Now Mr. Witness, you stated that this was just a small business and you didn't have much time for it and you weren't too interested in it.

A No, I didn't say that I was not interested in it. The business of the Degesch always interested me personally because my company invented the T-gas process on which I had cooperated and I always attached value to it so that the rights of the inventor or of the gentlemen who were with us were defended and would be pressed into the foreground.

Q I got the impression a little earlier when we asked you about the details of the business that you didn't know the details because it was just a small business and you had so many

other things to do. Now is it your present testimony that you were concerned with the details of the Degesch business?

A Yes. You asked me before whether I inquired about details during the year. I answered this question in the negative by mentioning that since Degesch only had a small share I could only dedicate a small part of my time to this. But during all meetings of the partners and all meetings of the Verwaltungsrat committee I was present, and every time I studied the business report thoroughly. Whenever I had the time, I had conversations with the business manager. But aside from the business reports, I had no reason to inquire about details of the business of which I could assume rightly that it was conducted properly, and I had the same impression given to me by my colleagues in the Verwaltungsausschuss. I think that most of these gentlemen dedicated even less time on the Degesch than I did.

Q Mr. Witness, how much of your time, what percentage would you say, did you dedicate to Degesch business?

A It is difficult to work that out. The capital of my company is 15,000,000. The Degesch was worth 15,000 marks. That is one-tenth of one percent but I think that I dedicated more than one thousandth of my time to Degesch.

Q Now, as a matter of fact, your interest in Degesch...

A So that you don't get confused, I said 15,000,000. The actual capital of my company is slightly different. I think it is 22,000,000.

Q Mr. Witness, actually your interest in the Degesch was such that even while you were being hospitalized and didn't have access to your company files, you asked the partners of Farben and Degussa for files and data which were the basis for the Degesch balance sheets, did you not?

A I didn't quite get that question.

Q Do you recall an occasion in which you were hospitalized and didn't have access to your company files, and you asked your company partners of Farben and Degussa for files and data which could form the basis of the Degesch balance sheets?

A It is possible. I wrote to the partners from the hospital on one occasion when I was hospitalized in Dresden. That was in November, December and January of 1944 to 1945, and of course, I had no documents with me there and mail from Essen came in very badly.

But, as far as I remember, I made some suggestions for the business which referred to the extension of the business of Degesch to contact poisons.

Q Mr. Witness. Now you have testified that you read thoroughly all the reports of Degesch. Now, will you tell the Court what other reports besides the business reports did you receive from Degesch?

A I received no other report except occasionally I received file notes about technical discussions. But that is a long time ago.

At the beginning of our corporation, our technicians and the inventors of the Degesch process of course had to assist Degesch occasionally, and since I was interested in the T-Gas process, I generally looked at these file notes and had reports made.

Q Mr. Witness, did you receive the so-called Degesch communications, the Degesch-Mitteilungen?

A Yes, in general.

Q Did you also keep a file which contained Degesch excerpts?

A What do you mean by excerpts from the Degesch.

Q A separate file which contained excerpts of information concerning Degesch, Auszüge.

A I remember that I received the Degesch communications quite often and I read them with great interest, because as a technician and a chemist that interested me. But I remember no other excerpts.

Q Mr. Witness, you also state that because of the direct sales activities for Degesch products were conducted, through Heli and Testa, that Degesch was restricted to deal with just technical problems and scientific angles. Now, is that so? Is that all Degesch did?

A Apart from that, Degesch trained the people who were to apply their products, and they supervised the processing which was being carried out. Apart from that, Degesch was the company which took care of the propaganda for the process abroad.

Q Now, Mr. Witness, isn't it true that the manager of Degesch is precisely the same man who managed Heli?

A Not in general. I only met Dr. Herd rather late, and as far as I know, Dr. Herd was introduced to me only after the collapse, he acted as a stop-gap.

Q Now, the only time with which we are concerned is from 1941 to 1945. Now, who was manager of Heli during that time?

A I think it was Dr. Herd in general, but he had difficulties because he lived somewhere in Austria.

Q Didn't you know, Mr. Witness, that Dr. Herd was forced to leave his position in Frankfurt as manager of Heli and he had to go to Austria and that he remained away from Frankfurt all during the war?

A I heard that after the collapse.

Q Isn't it true that the Degesch firm owned 51% of Heli and held the majority interest in Tests up to the middle of 1942?

A I inquired about the relations with the firms, Herdt-Lingler and Tesch and Stabenow when we joined the company, the Degesch in 1930, and therefore I knew that the Degesch had shares in the firms Tesch and Stabenow and Herdt-Lingler, amounting to 51%.

Q Now, Mr. Witness, you know, do you not, that the Degesch firm was supplying Zyklon-B gas to concentration camps?

A I never became conscious of that fact, that they delivered it for concentration camps. I knew that they delivered large amounts to camps, but I never was interested in finding out who was in charge of these camps.

Q Mr. Witness, did you know that Buchenwald was a concentration camp?

A I heard the name Buchenwald for the first time after the collapse.

Q Did you know that Neuengamme was a concentration camp?

A Before 1945 I didn't know that.

Q Did you know that Auschwitz was a concentration camp?

A Yes, I knew that there was a concentration camp in Auschwitz.

Q Did you know that Mauthausen was a concentration camp?

A No.

Q When did you find out that Auschwitz was a concentration camp?

A I don't know any more. I concerned myself with the fate of Jewish fellow citizens who, in 1942 and 1943, were suddenly forced

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to leave Essen and during that time, I must have heard for the first time the words Theresienstadt, Auschwitz, Litzmannstadt.

Q Now, Mr. Witness, what did you hear about them?

A I heard nothing about them. I merely knew that there were camps where a great number of people were locked up.

Q Now, Mr. Witness, you just told us that you learned and heard for the first time these names of concentration camps in connection with the removal of the Jews from Essen. Now, just what did you hear about concentration camps in that connection?

A Unfortunately I heard nothing. I tried, unfortunately without success, to learn something about the concentration camps but it was very difficult. The only thing I heard about concentration camps I heard from a master in our firm who had been charged with treason and had been locked up for more than a year for that reason, and then, owing to our efforts, he was released again after eighteen months. Then we looked after him as well as we could, but even this man was very reticent in giving information.

Q Mr. Witness, you say you concerned yourself with these fellow citizens who were Jewish, and who were being evacuated from Essen in 1942 and 1943, and at that time when you so concerned yourself, you heard about Auschwitz and Theresienstadt. Now, the question I am asking you is simply this, in that connection, did you concern yourself with the removal of the Jews? When you heard about Auschwitz and Theresienstadt, what did you hear about it?

A I only heard that they were transported away, and I saw to it that some of them, at least, received a friendly gift for their journey. Unfortunately, we never heard from these people again.

Q These people, did they go to Auschwitz or Theresienstadt? Tell me, is that where they were sent?

A It was impossible for me to find that out.

Q When I don't understand your answer. You said that in the connection you heard about Auschwitz. Now what connection is there

between Auschwitz and the leaving of the Jews, is there something further which you aren't telling us?

A No. At the time I inquired as far as I could and I heard that large camps existed in the East and that it was possible that the Jews were brought to those camps or that they were put into a ghetto in Litmanstadt (Lodz). I was told that a ghetto existed there by people on leave, but it was impossible to learn more.

Q Mr. Witness, did you know that at the same time that the firm Degesch, of which you were a partner, supplied gas chambers for Auschwitz?

A No, I did not know that. But I did know that the Degesch had ingenious gas chambers for disinfection of clothes, etc., and that they built these gas chambers, and that the construction of these chambers was discussed in a meeting of the Verwaltungsrat and meetings of the partners and was explained there. I personally even looked at the drawings and charts which Dr. Peters showed me.

Q When was that? On what occasion?

A That was either in 1940 or 1942, but it might have been 1943.

Q Now, Mr. Witness, did you know that your firm, the firm of which you were a partner, had sent Zyklon-B gas to Auschwitz even before the chambers had arrived?

A No.

Q Wasn't the correspondence of the firm Degesch available to you?

A No.

Q When did you first find out that your firm was sending poison gas, Zyklon-B gas, to the Auschwitz concentration camp?

A As far as I remember, in 1945, after the collapse.

Q Now, Mr. Witness, you testified a few minutes ago that at a meeting with Dr. Peters and others, he explained these gas chambers to you and showed you pictures and drawings of them. Didn't

it occur to you that when you sent gas chambers to some place you also had to send gas there?

A Of course gas could be sent even before gas chambers were there. The gas chambers constituted merely a very practical and suitable means of killing insects and disinfecting clothes and other things. Of course, one can improvise.

Q But then, when you say that you first learned of gas being sent in 1945 to Auschwitz, do you want to amend that statement to include your more recent statement that when the gas chambers were sent earlier that of course you knew gas was also sent?

A No. I merely assumed that it was natural that every camp or any large barracks needed some means for disinfecting clothes and other things.

Q Did you know that the license given to the SS personnel to handle this very dangerous Zyklon-B was a license which was limited to use in gas chambers only?

A No. I only know that the use of poison gas was controlled very strictly, and there were a number of regulations which were very strict and the State controlled this.

Q Isn't it true that the person who made allocations and who was chairman of the Committee for allocations of Zyklon-B gas was the same man who was the manager of Degesch, Peters?

A In the course of the suppression of any initiative, committees and associations were forced everywhere which the directors and the managers had to join.

Q Mr. Witness, do you know on whose initiative the particular committee of which Peters was Chairman was formed for the control of Zyklon-B gas?

A The control of Zyklon-B gas was handled by the health authorities.

Q Pardon me, Mr. Witness, I think you did not understand

the question. I said, do you happen to know on whose initiative this Committee was formed? The Committee of which Peters became chairman?

A No, I don't know that.

Q Do you know whether the Degesch firm of which you were a partner, actively supported, financially, the formation of this firm?

A Which firm?

Q Pardon me, the Degesch firm financially supported and promoted the formation of this Committee of which Peters was the head, to control the distribution of Zyklon-B gas.

A I do not believe that committees existed which had to control the distribution of Zyklon-B gas. I cannot imagine that committees could do such a thing. Such committees were only there to see to it that those products which were in demand were produced. They distributed the program of production. But I do not know that committees were formed to control the application of any product.

Q You mean, is it your testimony that the Degesch firm could have complete control itself over the distribution of its own Zyklon-B gas? Is that your testimony?

A I do not think so. In that respect, of course, they also had to obey the strict regulations. As soon as there was less Zyklon-B gas than was needed, of course, in the Third Reich. They had to accept the fact that priority lists were issued by the State.

THE COMMISSIONER: Perhaps we had better take a 15-minute recess.

PAUSEL: The Commission is again in session.

THE COMMISSIONER: Counsel, you may proceed with the cross-examination.

BY MR. MALSKOFF:

Q Mr. Witness, in studying the business reports of Degesch did you notice that large quantities of Zyklon-B were being sent to the SS?

A No, I do not remember that. Unfortunately, before coming here I did not have an opportunity to look through the business reports once again because, about a month ago, all our files which concerned Degesch were suddenly called for by three members of the Prosecution and were taken away by them.

Q Your files are not presently available to you, is that your testimony?

A That is right, they are not available to me. They were available to me when I deposited my affidavit, but I must now speak from memory.

Q Well, in view of the importance of the deliveries of Zyklon-B gas to the SS, at the time you made your affidavit didn't you check to find out the extent of the quantities that were being sent to the SS?

A No. It didn't matter at all, in my opinion, who administered a camp, whether it was the SS, or the Wehrmacht, or the Navy, or anybody else, because the sale of Zyklon-B only depended upon the number and size of the camps.

Q Perhaps you misunderstood my question. I was not referring to any particular camp; I was speaking of the total deliveries to the SS, which was a very large percentage of the Zyklon-B being delivered within all Germany.

A No, I don't think so; at least, it did not strike me. I was only interested in how much Zyklon was sold inside Germany and how much was sold outside, and how much was sold of the other products.

Q Now, perhaps we haven't quite understood each other. You testified, a bit earlier, that you studied the reports very carefully. If all you looked at was the total figure for Germany and the total figure

for outside Germany, you didn't require much of a study of the documents did you?

A No, that merely required a look at the charts, and that was done very quickly.

Q So that --

A Furthermore, that wouldn't have told me anything because I had no idea how many camps were under the SS Administration, how many were administered under the Navy. These were military secrets which were not available to me.

Q Mr. Witness, I was trying to learn just what you meant when you testified that you studied these business reports very carefully, and I was trying to find out whether you meant merely, as you say now, that you looked at the end result of the total for Germany and the total outside Germany, or whether you meant something more than that.

A I looked at the reports with a view to my making any suggestions, and whether in my opinion, the business management was using its business opportunities. It would have been useless for me to go into the details of the various sales. At any rate, despite zealous study of these reports, after so many years, of course, I do not remember these details.

Q Mr. Witness, I don't want to press you for details that you can't remember, but what I am asking for are just the most important facts, not details. For example if the SS received almost twice as much as all the Army installations, Air Force, Navy, Land Forces, would that seem like an important figure or an important fact to you?

DR. KERNET: Mr. Commissioner, I object to this question. The witness has already stated that he does not know anything about deliveries from Legisch to the SS, and therefore he cannot be asked that question.

MR. WINSOR: I will withdraw that question, Mr. Commissioner.

THE COMMISSIONER: Very well.

BY MR. MINICKOFF:

Q Just so that the record is clear, Mr. witness, is it your testimony that in all the years from '41 through '45 that you studied the business reports you never noticed even the main categories of customers to whom you were sending your Zyklon-B gas?

A No.

MR. MINICKOFF: Thank you very much. No further questions.

May I straighten the record out on these documents taken by the Prosecution, Mr. Commissioner?

THE COMMISSIONER: Proceed.

BY MR. MINICKOFF:

Q Mr. Witness, were all the documents which were taken by the Prosecution receipted for, document for document, before they were taken?

A Yes, I have a receipt for them.

MR. MINICKOFF: Thank you very much. No further questions.

REDIRECT EXAMINATION

BY DR. BRANDT:

Q Witness, may I ask you this? If you look at the document which was submitted by the Prosecution, you will find NI-15071. Will you please tell me what day this letter is dated?

A 1 March 1945.

Q You mean 1945?

A Yes.

Q Thank you. Witness, when you read the business reports did you have any special cause to ask for further information from the business management?

A No, the only questions which I had to ask occasionally referred to the interests of my associates in the promotion of the T-Gas and Curtax projects.

Q On the basis of the business reports, or on the basis of other information from any other source, did you have any special cause to ask

for further information from the business management about the sale of Zyklon?

A No.

Q Were you also a member of the Aufsichtsrat of other companies?

A Yes.

Q Of how many, approximately?

A Perhaps five or six.

Q Did you have the job there of looking into the correspondence of the Vorstand?

A No, that would have been a ridiculous undertaking. For example, I am Deputy Chairman of the Aufsichtsrat of the Commerzbank, and I don't think that even a very eager member of the Vorstand could read the entire correspondence of the Commerzbank.

Q That is sufficient, witness. Thank you.

Attention was made here of a committee for the prevention of epidemics and disinfection of sites, the chairman of which was Mr. Peters. If I understood the Prosecutor correctly, he said that Degesch paid this committee. Who bore the expenses for this committee? Was it Degesch, or how was it paid for?

A As far as I know, the work of these committees was done in an honorary capacity. Therefore, the time which these gentlemen spent in these committees and their traveling expenses were charged to the various companies.

Q In other words, Degesch did not unilaterally pay for this?

A No.

Q Was it the job of this committee to supervise these disinfecting companies?

A No. According to all that I have heard or have experienced about the organization of the German economy during the war, this was completely out of the question.

Q In the main, what did this committee have to do?

A: It had to see to it that the requirements were met as to those products which they supervised.

Q: Pardon me, witness, you said the products which they supervised?

A: Well, in the sphere of work which they supervised. In that sphere of work, they were to see to it that the raw materials and the ready products were available.

Q: In other words, in a few words, they had to do with the distribution and not with the supervision?

A: They were merely concerned with the distribution of the products.

Q: Doctor, do you have any cause to assume that the Vorstand members of Farben, especially those three who were in the Administrative Committee of Degesch, had any more sources of information than you?

DR. KINSKOPF: I have an objection to that question. Please don't answer.

It is please the Commissioner, what he has cause to the question is made.

DR. WEINERT: I withdraw the question.

BY DR. DELOUT:

Q: Witness, did you ever hear that the Vorstand members of Farben, especially those who were in the Administrative Committee, were better informed than you?

A: No. I rather had the impression that they used less time to look through the business reports than I did.

Q: I have one final question. In your affidavit you say that you would have immediately retired from Degesch if you had had even the slightest suspicion of the terrible misuse of Zyklon, and then you continue and say that you assume this to be true for the other members of the Administrative Committee. Can you give me a reason for this?

A. This assumption of mine is based —

MR. HENDERSON: I object to that question. The prosecution raises an objection to that question because it calls for a conclusion of the witness as to what other persons would have done under assumed facts. Of course it is objectionable.

THE CHAIRMAN: Your objection will be noted in the record. You may proceed.

BY DR. HILL DT:

Q. Please answer the question, Witness.

A. Why I cannot?

Q. Yes.

A. I base this assumption on the conviction which is based on a long acquaintance with the fact that all men in the Administrative Committee, all of whom held eminent positions in their firms, were gentlemen in the strictest sense of the word. I always found, in the conferences of the Dagesch, that there was unanimity about the fact —

Q. Just a moment please. I think you can continue now. Try it now.

A. I found in all conferences of the Administrative Council that there was always unanimity about the fact that the reputation of the Degesch was more important than the profit.

Q. This judgment which you have just given to us was true for
Borlaim, Wurster, and him?

A. Yes, and of course Weber, Andrew.

DR. BENNETT: Thank you. That is enough.

BY DR. MELTZ (for Hearnin):

Q. Witness, what legal form did the Depesch have?

A. The Dorsch was a G.m.b.H.

Q. Is this a capital company?

A. Yes.

Q. And if "partners" are mentioned here, all the time, is this expression "partner" correct?

A. No, it should be "associates."

Q. In order that the American legal circles can understand this, will you tell us which form corresponds to the G.m.b.H. in Anglo-Saxon law?

A. A limited company.

Q. In other words, it was a capital participation that you, that is, the firm, Degussa, and Farbon had?

A. Yes.

Q. Now, in the Degesch there existed also the fact that the influence of the associates varied as I take it from your testimony; is that correct?

A. Yes.

Q. That is sufficient for the time being. The prosecutor showed you Degesch Document No. 47, Exhibit 13. That is the document, "confidential addition to the minutes of the Degesch conference of 7 March 1936."

A. Would you please help me to find this?

Q. This is on page 35 and please look at page 37. This is the third page of this document. Do you have it now? This concerns a difference which you had with the business management of the Degesch; is that correct?

A. Yes, or with the other associates.

Q. At any rate, it was a matter of how much information you could get if you wanted it. Please look at this file note which is signed by Mr. Stiege and read it, on page 3. Under paragraph 2, it says: "This request of Dr. Goldschmidt was rejected by Mr. Schlosser for the Scheideanstalt and Mr. Stiege for the Degesch and it was determined that the figures and other documents were of course to be submitted to all associates and that it was at their disposal at all times. Not, however, to the representative of one certain associate." And please observe this, that apart from this the Scheideanstalt, "as the business managing associate," and the business management of the Degesch would reject any discussion on that point. Is that what it says in this file note here? The viewpoint of the Degesch business management under Degussa --

MR. HENKOFF: If it please the Commission, it is bad enough to read the entire contents of the document in evidence already, but to read it two or three times in open court, but to ask the witness if that is what it says and then going on to read another document doesn't have any point and just clutters the record.

THE COMMISSIONER: Very well, the objection will be noted in the record.

BY DR. HELLMER:

Q. Nevertheless, I shall ask you because I want to know whether this document, which of course was not signed by you and which according to the distribution plan which you see on page 4, was not sent to you, whether this document as far as the point that I read to you is concerned, is correct?

A. To my recollection, it is in general correct. I only have the following to say about it. At the time I did not ask for a special privilege of looking into this.

Q. Well, of course, that is an explanation. But you already told that to Mr. Henkoff when he asked you. I don't want to burden the record with too many repetitions.

MR. HENKOFF: Dr. Helmer, I don't care to go into the document either, but when the witness begins to explain what he did then and what did happen, that is important for the record to show. I think he should answer the question.

DR. HELLMER: I didn't get that.

THE COMMISSIONER: Will you please repeat it?

MR. HENKOFF: I will repeat the question. The position of the prosecution is that although the document itself speaks for itself, when the witness is asked what occurred he should be given an opportunity to give his complete and full answer as to what had occurred at that time.

DR. HELLMER: The prosecutor has the possibility to ask as many questions of the witness on this point as he wishes. It is customary before

this Court that the defense counsel, when he examines, determine what he wants to know and not what the prosecution wants to know.

BY MR. NELTE:

Q Tell me, please, Doctor, how often did administrative committee meetings take place after 1937?

A The administrative meetings took place once a year or sometimes twice a year.

Q Do you know positively when they took place since 1937?

A No, I would have to look into my files, but they are not available to me at the moment.

Q Therefore you can't say?

A Well, I remember that in 1940 a meeting took place in which Dr. Wurster participated for the first time; and that in 1942, when I assumed that an administrative meeting would take place only a meeting of associates took place.

Q That is correct. Now, you have testified, when asked by the prosecution, that if we, that is the members of the Administrative Committee, had wanted to receive information we would have received it; is that correct? Did you say that?

A There was only one decision --

Q. This is an answer to a general question. But in this criminal trial the specific point is whether Degesch delivered Zyklon-B to the Concentration Camp Auschwitz in order to gas human beings. Now, I want to ask you the following. Did you ever hear that this happened?

A. No; only from the newspapers after the collapse.

Q. If you had heard anything like that, would you have then requested information?

A. Yes.

Q. Would you then also have turned to your colleagues in the Administrative Committee?

A. Yes.

Q. Did you ever do that?

A. No.

Q. Why not?

A. Because I never heard anything about it.

Q. Did it happen in an administrative session or at a session of associates that such things or rumors were discussed?

A. No.

Q. Mr. Minskoff spoke of gas chambers and you confirmed to him that the business management showed you gas chambers.

A. Yes.

Q. In order to clarify this, for what purpose were these gas chambers intended?

A. The gas chambers were intended for disinfection of clothing, of food, tobacco etc.

Q. How large were these gas chambers?

A. The gas chambers might have been from eight to twenty cubic meters.

Q. Eight cubic meters?

A. Cubic meters, that is a closet.

Q. Well, we just want to be clear about it. Would such a gas chamber have been suitable to gas human beings?

A. A single individual or a few human beings could of course have been killed in a gas chamber.

Q. In looking at such a gas chamber, could one imagine that this gas chamber would be used for that purpose?

A. No, that would have been just unlikely as to use such a gas chamber to shoot somebody.

Q. Now, Mr. Minskoff was also interested in whether the SS deliveries were known to you, but I want to ask you the following about that. Did the SS have many opportunities to use gas chambers?

A. I do not know.

MR. MINSKOFF: Mr. Commissioner, this witness has testified seven or eight times now that he had no information about any gas going to the SS. If that is so, any questions as to what use the SS could put the gas illegally are completely irrelevant.

THE COMMISSIONER: Your objections will be noted in the record. The Tribunal will consider them.

Q. The question is as follows: Whether the SS as a formation, as a unit, as a part of the Wehrmacht, had many opportunities to use disinfectors.

A. After the SS had erected a large number of camps, of course they became an organization which used a lot of disinfecting material.

Q. Did the SS have barracks?

A. Yes.

Q. Did the SS have camps also, for other purposes than concentration camps?

A. Probably.

Q. Don't you know that?

A. No.

Q. Were you of the opinion that the SS only had concentration camps under its administration?

A. No, probably it had other camps too.

Q. Did you have any idea that if something had been delivered to

the SS that this would only have been used for concentration camps?

A. No.

Q. That is the only reason why I wanted to ask you this hypothetical question, which you could probably answer apart from your own knowledge--whether the idea is wrong that deliveries to the SS was equivalent to deliveries to concentration camps.

A. No, it is not equivalent.

DR. NELTE: Thank you, I have no further questions.

RECROSS EXAMINATION

BY MR. MINSKOFF:

Q. Just a few questions, Mr. Commissioner. Now, first, in connection with your testimony that if you had known that anything wrong was occurring you would have immediately disassociated yourself with it, may I ask you this question. Did your fellow-members in this partnership or company of Degesh, did they inform you or at least did the I.G. Perben part inform you that they were building and used a concentration camp for inmates to work for I. G. Auschwitz?

A. I didn't understand that.

Q. Were you informed by your partners in Degesch, your partner I. G. Perben, that it was building in Auschwitz a Concentration Camp Monowitz for inmates who worked for Auschwitz?

A. The camp.....I do not know the name Monowitz at all.

DR. HOFFMANN: Your Honor, I object to this question. It hasn't got the slightest thing to do with this affidavit. It concerns a wholly different subject and in this case, Your Honor, I would even prefer to have the Court make an immediate decision as to whether this question can be treated further or not.

DR. NELTE: On my part, I would like to object to Mr. Minskoff's designating this Camp Monowitz as a "concentration camp." He can designate it as a "camp," but it has not been determined whether it is correct to call it a "concentration camp" or a "labor camp."

MR. MINSKOFF: There is so much evidence in the record now that it

is a concentration camp that there is no point going into that, but rather than burden the record with further motions before the Court I will withdraw that question, Mr. Commissioner.

THE COMMISSIONER: Very well.

BY MR. MINSKOFF:

Q. Now, Mr. Witness, you have testified earlier today that you couldn't get information even if you wanted it from your partners and then later you testified that you could get information and now, on re-direct examination by Dr. Nolte, you gave a third answer. Now, I would like the record to show clearly what the answer really is. Now, if you, as a partner in Degesch, wanted information concerning the details of the business, can you tell us simply, could you or could you not obtain that information?

A. In the Degesch this is exactly the same as in any other German company —

Q. Mr. Witness, I am not interested in any other German companies. The question to you is, could you as a partner in Degesch obtain information you wanted as to details of their business or couldn't you? That is not a hard question.

A. No, it is not and I will be glad to answer it clearly so as to avoid any misunderstanding. If I wanted some detailed information, I would have turned orally to the Administrative Conference or written to the members of the Administrative Committee. I would have had to suggest that I wanted information about this or that case and then in the Administrative Committee a decision would have been made accordingly and the Administrative Committee could of course at any time decide something by a majority, which was binding on the business management because the members of the Administrative Committee were the representatives of the associates, but an individual member of the Administrative Committee could not of course on his own ask questions. Mr. Mann could not do that any more than I could.

Q. Now, Mr. Witness, you had two capacities, one as a member of

the Administrative Committee —

A. Yes.

Q. — and the other as a partner. The firm Goldschmidt was a partner in this Degesch firm. Couldn't you, representing Goldschmidt, completely apart from being on the Administrative Committee, go down to Mr. Peters, who is only an employee of the firm, and say, "Mr. Peters, could I see the books and records? I want to see how the business is making out?"

A. Of course I could visit Mr. Peters at any time, but to undertake a private scrutinizing of the books would have been held against me, rightly, by the other associates. It didn't even occur to me.

Q. And if you wanted any information of a detailed nature as to the sales or the production of your firm, is it your testimony that the manager of the firm, a less employee, would not furnish that information to you?

A. In Degesch? No, that is not customary, it is not done. If one participates to the extent of 15 percent, one does not go there and scrutinize the books and details of a company. That is what the Administrative Committee was there for.

Q. Now, one thing further I would like to clarify, and that is the question that came up in Dr. Walto's cross-examination, I believe it was, or it probably was Dr. Berndt's, as to this committee of which Mr. Peters was Chairman, the Working Committee for the Decontamination of rooms in the Control of Epidemics. Is it true or is it not true that this Committee was financed by the Degesch Company, which was considered to be the enterprise in charge?

A. I have already answered that. It was customary for the work in these committees to be done on an honorary basis, and, as far as I am informed, it was not customary to charge for travel expenses, but one charged those to one's company. Therefore, the expenses of these committees were practically equal to zero. I do not know who paid the small office expenditures, probably the economic group of the chemical industry did that.

Q. Mr. Witness, just this last question. I am not concerned with what is usual or customary in the business. I have a very specific question, and that is: This particular committee of which we are talking—do you happen to know whether or not it was actually financed by the Degesch firm?

A. No, I consider that improbable.

Q. May I call your attention, Mr. Witness, to Prosecution Exhibit 1773? It appears on page 214, I believe, of the German, in Book 83—82.

Will you show that to the witness?

(Document submitted to witness)

Q. (Continuing) I call your attention to the paragraph which reads:

"The Business Manager of Degesch, Dr. Peters, was charged by the

Special Committee for Chemical Products of the Reich Minister for Armament and Munitions for the formation of a working committee on fumigation and anti-epidemic agents, which started work on 26 June 1942, and for the organization of which Degesch, as the enterprise in charge, was also financially responsible."

Does that refresh your recollection as to whether or not it was Degesch which paid for this committee and supported it?

A. This cannot refresh my memory because I never knew anything about the matter. However--

Q. Thank you; that is the answer.

THE COMMISSIONER: The Commission will be in recess now, until

1:30

(A recess was taken until 1330 hours).

CERTIFICATE OF COMMISSIONER

Under directives of United States Military Tribunal No. 6, testimony of witnesses listed below was required to be taken before the undersigned Commissioner. Pursuant thereto the said Commissioner has conducted hearings at which the following witnesses have fully testified:

<u>Date</u>	<u>Name of Witness</u>	<u>Official Transcript</u>
8 April 1948	Walter Harlison	10875-10907
9 April 1948	Kurt Krueger	11128-11163
12 April 1948	Karl Weber	11165-11175
12 April 1948	Paula Ester	11177-11199
13 April 1948	Ernst Struss	11293-11338
14 April 1948 &	Christian Zahn	11444-11490
15 April 1948	" "	11587-11612
16 April 1948	Bernhard Schoener	11706-11723
19 April 1948	Adalbert Feindal	11827-11841
20 April 1948	Josef Grobel	11842-11860
20 April 1948	Gustav Pistor	11861-11878
21 April 1948	Emil de Haas	12098-12128
21 April 1948	Heinrich Schuh	12129-12140
23 April 1948 &	Heinrich Schindler	12337-12370
28 April 1948	" "	12707-12777
26 April 1948	Walter Kikuth	12461-12498
26 April 1948	Hans Seuer	12500-12512
27 April 1948	Wilhelm Duellborg	12598-12621
29 April 1948	Theo Goldschmidt	12871-12909
29 April 1948 &	Anton Belthinger	12910-12953
30 April 1948	" "	13075-13092
29 April 1948 &	Rudolf von Spretty	12954-12960
30 April 1948	" "	13065-13075
30 April 1948,	Rudolf Schmidt	13093-13133
5 May 1948 &	" "	13620-13629
6 May 1948	" "	13651-13719
3 May 1948	Wolfgang Alt	13246-13269
3 May 1948	Carl Gadow	13271-13291
3 May 1948 &	Kurt Hartmann	13292-13316
4 May 1948	" "	13412-13450
4 May 1948	Fritz Dion	13450-13460
4 May 1948	Kurt Eisfeld	13461-13479
4 May 1948	Adolf Taub	13480-13489
5 May 1948	Ernst Struss (for Pros.)	13566-13619
6 May 1948 &	Werner Schmitz	13720-13735
7 May 1948	" "	13861-13891
10 May 1948	Max Winkler	14173-14181
10 May 1948	Fritz Hirsch	14195-14209
10 May 1948	Ernst Kraschewski	14210-14220
10 May 1948 &	Frenz Fuerstenberg	14221-14245
11 May 1948	" "	14377-14384
11 May 1948	Heinz Savoleberg	14387-14424
11 May 1948	Karl Hunscheidt	14425-14439
11 May 1948	Reinhold	14440-14455
10 May 1948	Friedrich Selcher	14482-14494


During the said proceedings the following exhibits have been offered in evidence:

PROSECUTION EXHIBITS

<u>Exhibit</u>	<u>NI No.</u>	<u>Official Transcript</u>
2302	FS 2353 C	10899
2303	179	10904
2304	11036	11145
2305	11034	11182
2306	15070	11183
2307	11236	11302
2309	11232	11312
2311	15062	11327
2312	15063	11330
2314	11257	11468
2315	13524	11473
2316	11256	11473
2317	11251	11485
2318	11252	11476
2319	11014	11482
2320	11039	11834
2321	13084	11848
2328	10532	12615
2329	10528	12616
2323	10907	12706
2330	13525	12733
2331	15021	12878
2332	3763	12915
2333	15145	12921
2334	15146	12923
2335	8647	12927
2336	15132	12933
2337	1514	12942
2338	11098	13106
2339	13534	13111
2340	15215	13126
2341	15260	13620
2342	15173	13286
2345	7637	13728
2346	7666	13730
2352	15290	14382
2353	15296	14392

I, the undersigned Commissioner, do hereby certify that the aforesaid official transcript pages comprise a full, true and correct report of such proceedings, testimony and evidence heard and recorded therein before me.

Dated at Nurnberg, Germany, May 28, 1948.


 JOHNSON T. CRAWFORD
 Commissioner of Tribunal No. 6

THE MARSHAL: The commission is again in session.

THE PRESIDENT: One of the defense lawyers cannot be here tomorrow so it's necessary for us to finish the two witnesses we have this afternoon. We only have two witnesses and we must finish them for one of the defense counsel announced that he couldn't be here tomorrow. I am telling you this so don't ask any unnecessary questions and take up any unnecessary time. But I want to give you all the time you want, but we want to finish this afternoon. Let's proceed.

DR. BACHEM: (For Dr. Ilgner): I am calling the witness Dr. Anton Reithinger to the stand again. He has already been sworn in.

THE PRESIDENT: He's been sworn in?

DR. BACHEM: Yes.

THE PRESIDENT: All right, you may proceed.

DIRECT EXAMINATION - Continued

DR. ANTON REITHINGER - Resumed

BY DR. BACHEM:

Q Dr. Reithinger, please state your full name and address for the record.

A Dr. Anton Reithinger; Munich, Ismaninger Strasse 64.

Q The witness Dr. Reithinger has deposed some affidavits for the defense of Dr. Ilgner which I shall name now: In Dr. Ilgner Document Book No. II, Document 34, Exhibit 37; Document 35, Exhibit 38; Document 38, Exhibit 41; Document 41, Exhibit 44; Document 42, Exhibit 45; In Ilgner Document Book No. VII, Document No. 122, Exhibit 126; and Ilgner Document Book No. IX, Document No. 160, Exhibit 161.

Dr. Reithinger, I am asking you whether you wish to add or change anything concerning these affidavits?

A No, I have no alterations to make.

Q I have no further questions.

CROSS EXAMINATION

BY MRS. KAUFMANN:

Q Witness, do you have all of your affidavits which were referred to a moment ago in your possession now?

A Yes.

Q Now in your affidavit, which is Ilgner's Exhibit 37, that is Document 34, you state that Verbindungsmaenner reports were among the source of information utilized in the VOWI reports and you also state that these Verbindungsmaenner reports played a completely subordinate role in your work since you obtained the information sooner from official publications or the press. What official publications are you referring to?

A We had the official statistics of all countries and current statistics from the international press, for example, about raw material prices, trade abroad, about production figures, and briefly about all the figures which the international economic press publishes currently.

Q Were these figures and information generally available in Germany?

A The figures were available anywhere in Germany as long as the international press was available in Germany.

Q Now you say that this information was also available in the press. What press are you referring to? Was that the German press?

A The German and the international press.

Q Was the international press available in Germany?

A Yes.

Q It was?

A Yes, until the war.

Q Now isn't it true that shortly after Verbindungsmaenner were appointed for I.G., National Socialist editors requested that facts and information which were received from I.G. Verbindungsmaenner be passed on to them for their confidential information?

A I do not know about that, because I was not competent for the connection with the press.

Q In that connection, Mr. Witness, I show you Prosecution's Exhibit 842 which is NI-5727, and I direct your attention to the top of the last page of this exhibit which states: "Passarge reports on requests submitted to him to pass on to a few suitable National Socialist editors for their own confidential information the reports and facts received by us from I.G. Verbindungsmaenner. This matter is to be settled at a special meeting in which Cattineau, Reithinger, Passarge and Kersien will take part."

DR. BACHEM: I object to this because I cannot see what connection these particular facts concerning the I.G. Verbindungsmaenner have with the affidavit of the witness.

MRS. KAUFMAN: The witness has stated in his affidavit that Verbindungsmaenner reports contain matter which he obtained sooner from official publications or the press. I believe that the question to the prosecution has direct bearing on that statement.

THE PRESIDENT: The objections and the reasons of each of you will be in the record and when the Tribunal reads the evidence they will pass on whether or not your objection is good.

BY MRS. KAUFMAN:

Q Now Mr. Witness, does this passage refresh your recollection that requests were made by the National Socialist editors that information from Verbindungsmaenner be passed on to them?

A No, this sentence cannot refresh my memory because I must explain the situation. WVH did not get any reports from the I.G. Verbindungsmaenner directly, but the EDKA was competent to compile these reports and to process them. This EDKA chose cuttings from papers and similar economic material, books and pamphlets which the I.G. Verbindungsmaenner sent and which might have been of interest to the WVH, and sent them to the WVH. This general material was already known to us in most cases before it reached the WVH through the EDKA. Owing to this, it was relatively uninteresting for us and was hardly used for any purpose. May I explain here that the work of the WVH was to draw conclusion from basic statistical material, and from their own scientific work. For us, conclusions which had been drawn by representatives, abroad from some material or other were of little interest, through experience in many cases, such as the loss owing to currency exchange, we knew that usually wrong conclusions were drawn on the spot where it happened. Owing to that, we were only interested in actual basic figure material.

Q Now to get back to the question which was put to you, do you recall that National Socialist editors requested that information supplied by I.G. Verbindungsmaenner be passed on to them for their own confidential information?

A No, I cannot remember that because I was not competent for this.

Q You have answered the question, Mr. Reithinger. Now you have testified that the Verbindungsmaenner reports were of no special value to your WOHI organization. Was that true with respect to I.G. Farben generally?

A Unfortunately, I cannot say that because I cannot pass judgment as to what the contents were of the entire reports of the I.G. Verbindungsmaenner.

Q Now, isn't it true that WIFO compiled periodic reports on the basis of Verbindungsmaenner reports which were presented at the regular commercial committee meetings?

DR. BACHM: Unfortunately, I must object again. Questions are being asked here which have nothing to do with the WOHI, which is the subject of discussion. Questions are being asked which concern the WIFO and Verbindungsmaenner, about which the witness made no statements.

MRS. KAUFMAN: I think that these questions go to the merits of how valuable the Verbindungsmaenner reports were generally, and the witness has raised that question in his affidavit.

DR. BACHM: May I just reply to that that the witness merely reports about the significance of the Verbindungsmaenner in as far as the WOHI is concerned but not generally for the I.G. or for the WIFO or any other organization.

THE PRESIDENT: The commission doesn't pass on these objections, so the only thing to do is to make the objections and your reasons as brief as possible and then the Tribunal will consider those when they go to read the evidence.

BY MRS. KAUFMAN:

Q In connection with the limitations of the questions concerning Verbindungsmaenner to WOHI, the prosecution cannot accept that position because the witness has characterized the Verbindungsmaenner reports as reports which generally contain information of no significance or value or which came after full publicity had been given to that information.

Now my question to you is — do you recall the question that was put to you, Mr. Witness?

A Yes, about the general meaning these reports had for the I.G. Farben.

Q Well, in my other report, the last question was: as a matter of fact, isn't it true that WIPO compiled periodical reports on the basis of the Verbindungsmaenner reports which were presented at the regular commercial committee meeting?

A I cannot even judge that. I believe that the reports of the Verbindungsmaenner were also used as documentary basis by the WIPO, but since the WIPO has pressed by WMI and since the relations between the WIPO and the WMI were not very close, I cannot judge this.

Q Did you know that these reports were given to interested government agencies such as the Wehrmacht, the Wehr, and the Foreign Office of the NSDAP.

A No, I do not know that in that form either. I do know that the WIPO in particular, under Dr. Ter Haar later, through the relations with the Ministry of Economics, constantly went to get information on problems of foreign trade, of customs duty, prices, and so forth — and this information was compiled in the so-called WIPO Report and sent to the KA.

Q I show you Document marked NI-3763 which is offered as Prosecution's Exhibit 2332. This is an affidavit prepared by yourself.

DR. ASCHENAUER: (For Gattineau) I —

MRS. KAUFMAN: Will you please let me finish my question. This is an affidavit prepared by yourself on 29 January 1947. Now, you might state your objection.

DR. ASCHENAUER: I object to the submission of this affidavit. I cannot understand how the prosecution can submit an affidavit now after this affidavit was made on 29 January 1947 already. Added to this is the fact that the witness questioned here cannot be cross-examined concerning the WIPO but only about the WMI. In view of the fact that

this affidavit brings up questions which are of importance for my client, and I am forced, if this affidavit should be accepted, to question the witness as well, I ask for interruption of the session of the commission and for a ruling by the court about the admissibility of my objection to be made now, because the result will be that I shall have to conduct a very detailed examination about it and the ruling of the court is vitally important for this. It will not help us if the objection is contained in the record, but in this case a ruling is necessary. If the objection is entered in the record, then for my part it is necessary to wait for the ruling of the Tribunal and then to examine the witness Reithinger on another day.

MRS. KAUFMAN: The Prosecution must confess --

DR. HOFFMANN: Mr. Commissioner, I am sorry but, since the name of my client was also mentioned, I must join the motion made by my colleague and I ask that the session of the Commission be interrupted and a ruling by the Tribunal be brought in.

DR. ACHER: I also join the motion of the two gentlemen?

MRS. KAUFMAN: The prosecution did not understand the basis of the counsel's objection with respect to the date on which this affidavit was prepared. It does not understand the relevancy of that particular objection.

With respect to the other matter raised by counsel, the prosecution will state this affidavit is now offered in evidence in connection with the witness's testimony concerning the value of the Verbindungsblätter reports which is clearly discussed in the affidavit offered by the prosecution.

THE COMMISSIONER: We will proceed with it.

DR. HOFFMANN: May I ask briefly-- I did not quite understand what the prosecution said -- does the prosecution only want to submit only one or two sentences from his affidavit or are they offering the entire affidavit?

MRS. KAUFMAN: The prosecution is under the impression that when a document is introduced for the purpose of cross examination it is introduced in evidence in its entirety.

DR. HOFFMANN: In that case, Mr. Commissioner, may I ask for a ruling on our objection.

THE COMMISSIONER: We will have to proceed with this; we can't stop every few minutes to go down and see the Tribunal, so you put your objections in the record and your reasons and then we will take those things up.

DR. HOFFMANN: May we interrupt for a moment? I just want

to discuss this with my colleagues.

DR. ASCHENAUER: Mr. Commissioner, I would like to add something. The view of the prosecution that an affidavit is submitted in its entirety for cross examination is also wrong. President Shake ruled that an affidavit serves as counter evidence, as rebuttal evidence, on various points against the testimony of the witness who has just been questioned. Please consider this. I shall personally leave this session of the Commission and go to the main tribunal.

THE COMMISSIONER: Very well; you have that privilege.

MRS. KAUFMAN: May I state that I have simply one question to put to the witness concerning this document and if it is to the interest of the defense that I defer putting this question until the termination of my cross examination of the witness, I shall be glad to do so.

DR. ROFFMAN: Mr. Commissioner, may I state the following for the record? I am very sorry to have to object to my esteemed colleague but my main interest, Mr. Commissioner, is to object against the submission of this document because the Prosecution could have offered it months ago, but did not do so. Now, six days before the conclusion of this trial, it is still being submitted although the case of the prosecution has been closed already months ago.

MRS. KAUFMAN: I don't believe the prosecution need comment on that remark. Shall I proceed, Mr. Commissioner?

THE COMMISSIONER: You may proceed, yes.

BY MRS. KAUFMAN:

Q Have you that affidavit, Mr. Witness?

A Yes, I have a copy.

Q Under Item 3 of this affidavit you state in the second paragraph — and I quote: "Reports that were turned into the EDKA by the Verbindungsmaenner abroad were also used by Wipo in its relations with government and Party

agencies. Whatever was interesting in these reports always found its way to Wipo. Since the beginning of the war Wipo compiled periodical reports for the meetings of the Commercial Committee which was assembled on the basis of the monthly reports of the Verbindungsmannner. This report was passed on to the Vorstand and probably to the interested government agencies such as the Wehrmacht, presumably to the Abwehr, and to Major Bloch. It can be assumed that these reports went to the Reich Economic Ministry and probably the Ausland-organization. Contained in these reports was information on economic and political subjects."

Now, in the light of what you testified to concerning the fact these reports contained matters which were generally known before they arrived in Germany, can you explain why it is that such organizations as the Wehrmacht would have requested copies of the Verbindungsmannner report for information contained in them?

A I can only repeat that I do not know that. I have to make some explanations here. Concerning this affidavit, I am in rather a difficult position. In the winter of 1946-47, I was interrogated by the prosecution for several weeks and in conclusion of those interrogations I had the record shown to me at the end. This is neither my phrasiology nor does it express....

Q Mr. Witness, I would like an answer to the particular question which I put and that is: why were these reports of importance to the Wehrmacht?

A I am afraid I have to give some explanation first because this point is without doubt, incorrect when the record was submitted to me at the time, after many days of interrogation, I tried to correct the mistakes and misunderstandings which had occurred during the interrogation.

Soundlessly, a misunderstanding occurred here which was not

taken out of the affidavit. The reports of the Wipo for the KA are not directly known to me but I know that they were compiled and in these reports was the information which the Wipo got from the government -- and is, the Ministry of Economics and from other authorities; and they revised these reports for I.G. Farben.

Therefore, I can't quite see why the Wipo, as intermediary agency of one government agency to another -- namely, to the Wehrmacht or to the counter-intelligence -- should have handed on this information which the counter-intelligence or the Reich Ministry could have secured directly from a government agency -- namely, from the foreign office or Ministry of Economics.

Q Mr. Witness, you are now talking about an affidavit which you signed, is that correct, and which you swore to under oath -- is that correct?

A Yes.

Q Now, you state in your affidavit which is known as Exhibit 37 that never from any source was it suggested that you and your colleagues should engage in espionage and propaganda activity. Did you ever engage in propaganda activities for Nazi Germany?

A No; as far as I understand it, I did not.

Q Do you recall having made a trip to America in the spring or summer of 1933?

A Yes, in the spring of 1933.

Q What was the purpose of that trip?

A The purpose of that trip was that our American businessmen friends were to be informed that we expected the devaluation of the U.S. dollar.

Q Was this in connection with I.G. Farben business?

A Yes, it was connected with the debts which I.G. Farben had in the States and all their interests; and throughout the

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winter we had watched the dollar situation and, contrary to the rest of the world and particular contrary to the attitude of the banks, we had gained the impression that the American dollar was going to be devaluated.

Q Now, isn't it a fact that on your trip to America at that time you also engaged in propaganda for the Nazi cause?

A No.

Q In that connection I show you document marked NI-15145 which will become prosecution's Exhibit 2333. I direct your attention to page 2 of this document in which you state: "It was at least possible to explain and advertise the German cause successfully to our friends in America and especially in New York from where I have returned yesterday."

Does that refresh your recollection that on that trip you engaged in propaganda for Nazi Germany?

A May I read this document for a minute?

Q Please, take your time.

A May I say the following concerning this. Neither do I remember now who Dr. Georg Luedtke was, nor can I remember ever having taken part in any parts of these discussions.

Q My question to you was, whether or not you recall that on this trip to America you engaged in propaganda for the Nazi cause?

A No. On no occasion, either in America or Germany, did I discuss Germany with people, nor did I hold any lectures in America. During the three to four weeks which I spent in America I was exclusively together with American friends of I.G. Farben, and once I went to the National Industrial Conference Board. I was merely invited for a lunch and I merely listened there. May I say that such replies to letters which were sent to people who were not invited, were sent out automatically by the hundred ...

Q Your comments were not requested concerning that particular document. If the Defense wants to question you about this document he may do so, but if this document does not refresh your recollection, we will go on to the next question. Did you make a trip to the near East in September, 1933?

A To the near East? Do you mean to the Balkans and Turkey? However, not to where the Orient starts.

Q I am referring to the south-east of Europe.

A Yes, I was in Southeast Europe.

Q What was the purpose of this trip?

A The purpose of this trip was mainly to get information about the economic development of those countries.

Q Was this in connection with I.G. Farben business?

A Yes.

Q Did you make propaganda for the German cause on that trip?

A No.

Q Weren't you on an official mission on that trip for the purposes of obtaining information not in relation to I.G. Farben business?

A At any rate, no order had been given to gather information not concerning the I.G. Farben. But the VWI had such an extensive field of activity that during such a trip, I gathered all information and data even if it did not interest Farben, whatever I thought would be suitable.

Q But this was for I.G. Farben, is this correct?

A Yes.

Q In connection with your association with I.G. Farben, in that connection I show you document marked NI-15146, which will become Prosecution exhibit 2334. This is a letter from Krueger to the managers of I.G. Agencies in the near East, which refers to this trip by you, Roth and Moellendorf, on page two, Krueger states, and I quote:

"The purpose of this trip is information of a general nature, not in direct contact with I.G. Business, and for this reason, the gentlemen will refrain from using the I.G. Agencies as a base. They will rather obtain the introductions to officials there, which they need for their work, via the official German representatives, in the first instance, the Foreign Office. They will therefore utilize, in the first instance, legations of Embassies as intermediaries."

My question is: Why was it that Krueger was anxious that I.G. should not appear in connection with this visit?

A Insofar as I can follow Dr. Krueger's train of thought, doubtlessly it was his intention to eliminate the jealousies between the Frankfurt agencies, by stating that our trip was not connected with the I.G. business. At the time neither Dr. Krueger nor Zeff were competent, nor could we have obtained permission to take care of I.G. business. I therefore assume that this was the main idea of Dr. Krueger. May I add that Herr von Moellendorf, from his former activity in the Voelkerbund (League of Nations), had particularly close associations with the old members of the Foreign Office, and therefore asked for introductions. May I also add that the man in charge of that trip, Herr von Moellendorf, was known as a definite anti-Nazi; that Herr Direktor Roth was a Jew, and it

can hardly be assumed that I, in accompanying these two gentlemen, would have been able to do espionage in those countries.

Q Was it a habit for I.G. to be so inhospitable to its employees or associates traveling abroad?

A I beg your pardon, would you repeat it?

Q Mr. Krueger makes clear in his letter that the I.G. agencies were not to have any official connections and were not to procure introductions for you and your associates on that trip. My question is: Was it customary for Farben to be so inhospitable to employees traveling abroad? Weren't they usually accorded . . .

A No, not in general. But this case was a matter of course, because at that time I was not yet an employee of I.G. Farben, but an employee of the Deutsche Laenderbank. Herr von Moellendorf was not an employee of I.G. Farben either, and I think it is understandable that Dr. Krueger thought in as far as any further actions by I.G. Farben concerning this trip were concerned, - after all, they are not I.G. Farben people.

Q But you were, on that trip, not connected with I.G. Farben business, is that correct?

A May I say first that this is not correct; the foundation of the Vwd, as Geheimrat Bosch and Moellendorf intended it, was to provide not for an I.G. Institute or Agency, but for a very public institution for the use of everybody, something like the then German Institute for Economic Research, and just then, at that time, we brought out publications like the so-called elementary comparison between America, Germany, France, England, Italy . . .

Q Mr. Witness, would you please stick to the question and avoid giving us a long discourse on the activities of the VOWI.

Now, do you consider that you have answered my question, that you were engaged in I.G. Farben business on this trip to the Near East? If you do, we will let the record speak of itself.

A No, we were not doing I.G. business. It concerned general economic problems.

Q Isn't it true that from the beginning of the Nazi seizure of power the Defendant Ilgner made the utmost efforts to establish a position for himself among the men of the new Regime?

A I do not think that he was seeking for a position ...

DR. BACHEM: I must object again to this question. It has nothing to do with the affidavits of the witness, it is a general question going far beyond them.

MISS KAUFMAN: The witness has stated in his affidavit, which is Ilgner exhibit 37, that Ilgner offered his N.W. 7 office as a haven for political persecutees, I assume for the purpose of showing a hostile attitude toward the Nazi regime. In any event, this question is asked so that the Defendant's attitude towards the Nazi regime, which was described by the witness . . . This goes to that particular question.

THE COMMISSIONER: The objection and reasons are in the record so we will proceed.

BY MISS KAUFMAN:

Q Do you recall the question, or shall I repeat it to you?

A Please do.

Q Isn't it true, that from the beginning of the Nazi Seizure of power, Ilgner made the utmost efforts to establish a position for himself among the men of the new regime?

A In that case, I consider the way in which the question is put as incorrect; it is correct that Dr. Ilgner tried, after the seizure of power by the Nazi regime, to improve the non-existing connections between N.W. 7 and the Party. I think one can say that. But I don't think he was trying to gain some sort of a position for himself because there was no need for that.

Q Now, in your affidavit, which is Ilgner exhibit 38, — do you have that before you? — you state, concerning Prosecution Exhibit

877, which is NI-7672, that Chemnico only transmitted to WONI generally published materials, such as books and magazines which were generally accessible to the public, and excerpts from daily papers. Now, isn't it true, as a matter of fact, that Chemnico also sent specially prepared reports on the subject of technical developments in the United States?

A As I see the question it was Chemnico and not Wipo.

DR. BACHEM: I am sorry, I just wanted to point out that the translation said Wipo instead of Chemnico.

BY MISS KAUFMAN:

Q Do you understand, Mr. Witness, that we are talking about Chemnico now?

A Yes, I fully understand your question. Dr. Bannert of Department IV always received all mail from America. I concerned myself relatively little with this, therefore I can neither confirm nor deny the question, but I am convinced, that if a technical department of I.G. would have written to WONI, that they wanted technical articles from newspapers or magazines, they would of course have furnished them and would have complied with their wishes.

Q Did you correspond with Chemnico?

A Yes, in particular during my trip to America I visited Chemnico and from that visit onwards there has been an occasional correspondence which, however, almost stopped altogether after some years. The articles of Chemnico, the clippings which the Chemnico sent to us were of relatively little interest to us just like the material from HDKA reports which we received, because, as I explained, we already had the statistical data and other documents from other and better sources . . .

Q When was the last time you received fairly regular correspondence from Chemnico? You say it stopped almost completely after a few years. When do you mean that it stopped almost completely?

A I would say that about the beginning of the war they stopped sending us material altogether. But I cannot give a definite date,

because, as I said, mail from America was not handled by me.

Q Was the mail addressed directly to you?

A I believe that the mail was addressed either directly to me or to Vowl or perhaps to Dr. Bannert. At any rate, it was automatically distributed to Department IV.

Q Did you receive mail from Chennico, and I mean by that you personally, Mr. Witness, which was of a camouflage nature. That is, it was not sent directly to I.G. Farben, but it was sent through camouflaged mail?

A I cannot say that, because the mail came to my desk already opened. I don't know how it reached me.

Q You had no knowledge of the fact that this mail was being sent to you through camouflaged ways, is that correct?

A No. I never bothered to find out how the mail came.

Q Now you did receive reports, as a matter of fact, from Chennico, written as well as printed reports by Chennico, as late as shortly after the outbreak of the war, which were sent to you through camouflaged addresses, is that correct?

A I am afraid I don't know that.

Q In that connection I will show you document NI-8647 which will become Prosecution exhibit 2336, and I ask you: Does this refresh your recollection that Chennico transmitted to you letters and reports under camouflaged addresses? If this does not refresh your recollection, please answer no and let us proceed. If it does, then state that.

A No. I can only gather that one letter was obviously addressed to me and one to somebody else.

Q Now, in your affidavit, which is Igner Exhibit 41, you state that the institute for market investigation and the Kiel Institute for World Economics and Maritime Traffic were also entrusted with tasks for the OKW after the outbreak of the war. When did you learn that these organizations were performing tasks for the OKW?

A I knew that right from the start because we cooperated very

closely with the Institute at Kiel. We paid them a retainer for the use of the large library.

Q When you say "we", you mean I.G. Farben, is that correct?

A The Vowi.

Q Now, in this affidavit which I just referred to, Ilgner exhibit 41, you discussed Prosecution exhibit 860, NI-7493. These are excerpts from the weekly file of the Military Economy Office. You stated in your affidavits that some of the entries contained in this weekly file are products of someone's imagination. Is it true, Dr. Reithinger, that on August 24, 1939, Dr. Jahn and Fernau from Vowi participated in a conference together with you, with a member of the Office of the Military Economy Staff at which you made Vowi's archives and printed material available to the Military Economy Staff and also agreed that Vowi was to answer any specific requests for information by the Military Economy Staff? Is that correct?

A I consider the entries in the diary to be wrong insofar as . . .

Q Mr. Witness, let me interrupt you at this moment. I am not asking you about the entries in the diary. My question to you is, isn't it correct that the events which I have just described took place on 24 August 1939?

A Dr. Fernau once introduced me to the professor under whom I wrote my doctor's thesis, and it might have been on that date.

Q Did you make this agreement on that date?

A We did not make any agreement because I could not have any such an agreement. I could not do so without the consent of my superiors. Presumably Professor Hesse mentioned that he wanted to get some work from the Vowi and I said I could give it to him just as I would have promised it to anyone else, because the work of the Vowi was available to anyone.

Q Mr. Reithinger, is it then your testimony, that the agreement that I have just stated, which I have quoted verbatim from Prosecution exhibit 860, NI-7493, which appears in the weekly files of the Military

Economy Staff, was untrue or the product of somebody's imagination?

A I don't think it came from somebody's imagination, but there was no agreement. It was a discussion in which I promised him some work of the VWI. Such agreements were made every day.

Q Now, in connection with whether or not it was an agreement, Mr. Reithinger, I show you Prosecution exhibit 861, NI 8649. This is a memorandum issued by Economics Group 8 of the Military Economy Staff of the Wehrmacht, which states: "An agreement has been reached with the Economic Department of I.G. Farben to the effect that the above-named department is to make available all its records for the use of the military Economy Staff. In addition, the Economics Department has stated that it is prepared to furnish full information as quickly as possible in reply to briefs and clearly worded inquiries."

My question to you is: Is this memorandum which was sent to more than ten divisions of the Economic Group of the Military Economy Office either the product of somebody's imagination or an untrue record of the events which took place on August 24?

A I can only explain it again by saying that an affirmative reply which we gave to any agency or any office requesting our work, has been mistakenly defined here as an agreement. I can see also, from the last paragraph, where it says that oral requests are to be addressed to Dr. Fernau, that the question has been very much minimized. Fernau was a minor referent in the Laender department of the VWI. And if there had really been an agreement between the VWI and the OKW, then the inquiries would have been addressed to me and under no circumstances would I have neglected to show such an important inquiry to my superior, Dr. Krueger, or to Dr. Ilgner.

Q Then, Mr. Reithinger, you still state that no agreement was reached in spite of the fact that the entries in the weekly files of the Military Economy Staff and an official memorandum issued by that department to many departments within the Military Economic Staff, states

that such an agreement was reached? Is that correct?

A I am sorry, I have to stick to my opinion.

Q. Prior to August 24, 1939, had VOWI been providing the Military Economy Staff of the OKW with information which it requested?

A. Again I must say that every official or private agency could ask the VOWI or the WIPO for information.

Q. Witness, I have not asked you about what you did or what other official agencies did. My question is, did VOWI provide the Military Economy Staff of the OKW with information prior to August 24, 1939?

A. I cannot say that for certain, but I assume that if an agency of the Economy Staff was interested in a report then it could obtain this without any trouble, and it could even order it.

Q. Did you ever provide information to the Military Economy Staff of the OKW prior to August 24, 1939?

A. I cannot remember such a date as to be able to fix it within a few weeks. At any rate, if any such information went there, there could only have been very few exceptional cases.

Q. In as far as your recollection goes, you believe that there were only a few cases in which the Military Economy Staff of the OKW received information from VOWI prior to August 24, over a period not of a few weeks, Mr. Reithinger, but over a period of a few years preceding that date, is that correct?

A. All the more, it is impossible that the Wehrwirtschaftsstab should have received a greater amount of information before that date because I myself did not know any of the gentlemen except for Colonel Hesse, who had been introduced to me by Mr. Forman shortly before this agreement. I only met the gentlemen of the OKW when Dr. Krueger told me about the agreement he had made.

Q. Did you know General Thomas?

A. Only by name, never personally.

Q. Did Farben provide General Thomas with information from its VOWI archives prior to the outbreak of the war?

A. I don't know.

Q. At any time prior to the outbreak of the war?

A. I do not know that.

Q. Didn't Thomas know about the excellent archives which you maintained at VOWI?

A. I would assume that he knew about them, because the entire Government knew about them.

Q. The government agencies were in the habit of asking for information from VOWI, isn't that so?

A. Certainly, if the Referat of the Economic Ministry and of the Foreign Ministry wanted to compile any statistics they got their information from us rather than from the Reich Office of Statistics.

Q. Why would Thomas's Military Economy Staff refrain from asking your organization for information when it was the practice of every other Reich agency to make such requests?

DR. BACHEN: Just a moment, please.

MRS. KAUFMANN: I am going to anticipate the objection and to rephrase the question.

BY MRS. KAUFMANN:

Q. Is it your testimony that Thomas's office refrained from asking for information from the archives of VOWI, whereas other government agencies did ask for information from VOWI?

MRS. KAUFMANN: Is that all right?

DR. BACHEN: I didn't quite get that.

THE WITNESS: I can only answer that I cannot judge this, because I do not know.

BY MRS. KAUFMANN:

Q. I don't understand your answer Dr. Witness; now I am in the position of not understanding. Is it your testimony that you don't know whether or not Thomas's office asked for information from VOWI?

prior to the outbreak of the war? Is that your testimony?

A. Yes, or, at any rate, I do not remember. Among the thousands of reports and the hundreds of thousands of requests which we had, there might have been a request for one or the other report before that agreement of August 24; that is quite possible, and I even consider it probable. At any rate, it did not become close cooperation or else I would have remembered it.

Q. But you do remember that other Reich authorities requested information from VOWI, is that correct?

A. Oh yes, quite exactly.

Q. Now, isn't it a fact that as early as 1934 the VOWI archives were placed at the disposal of Thomas?

A. No, I do not know that.

Q. In that connection I show you a document marked NI-15132, which will be introduced as Prosecution Exhibit 2336. Will you read this document and then tell me if it refreshes your recollection that Ilgner informed Thomas that: "I shall be glad to put at your disposal the files of our economic archive on metals and other important raw materials or to have the corresponding papers prepared, because I assume that, aside from our compilations on metals, you will find other especially interesting papers in our economic archives. May I make the suggestion that one of your gentlemen gets in touch with the Director of our economic archive, Dr. Reithinger, who will gladly undertake informing you about the available material."

A. I wish to say the following concerning this. Every three months we compiled so-called raw material leaflets, of which several hundred copies, I believe five hundred copies, were distributed to all persons interested at home and abroad. This concerns a copy of this kind, which was automatically mimeographed, and Dr. Ilgner evidently sent such a copy to Thomas at the time.

Q. Dr. Reithinger, may I interrupt you and ask you this question? Are you now referring to the particular event which you recall, or are

you simply analyzing the document for the benefit of the Commissioner?

A. No; it is impossible for me to remember all the thousands of persons who received material from us, or who were referred to me by various agencies about receiving material every now and then, which was available to anyone.

Q. You have answered my question. Now, in your affidavit, which is Elgner Exhibit No. 161, you speak of a dinner party held by the defendant Elgner in the summer of 1941, at which you discussed the possibility of imminent war with Russia. Do you recall the month in which the discussion took place?

A. Yes.

Q. What month was that?

A. Unfortunately, I do not remember which month it was. At any rate, it was about three to six months before the war with Russia started. That must have been in the early summer.

Q. You know the date when the war with Russia started. That was June of 1941. And your testimony is that this dinner party took place about three to six months prior to that date, is that correct?

A. Yes. Then it must have been in winter; at the moment I thought the war with Russia had started later.

Q. Now, what was the basis of your belief concerning the possibility of imminent war with Russia?

A. It was a topic of conversation, which was started by Dr. Terhaar.

Q. What was the topic of conversation you talked about? One just doesn't decide there is going to be a war with Russia. What were the facts that you discussed at that time?

A. About six months before the beginning of the war with Russia, the entire propaganda of the German press was changed. Any of us who followed these things attentively felt restless about that, and worried. Of course we discussed such questions then, whether the possibility

existed or whether no possibility existed for this to happen. At any rate, it was something similar to the situation at the present date.

Q. Now, isn't it true that the press, with respect to Russia, was completely silent during that period preceding the attack on Russia?

A. Perhaps concerning a war against Russia, but the anti-Russian propaganda had been started, and from the many rumors and conversations which automatically worried the population during such times, any close observer could notice that a political change had taken place in our relations with Russia.

THE COMMISSIONER: It will be necessary to take recess now; the sound track has to be changed. We will recess for about 15 to 20 minutes.

(A recess was taken.)

THE MARSHAL: The Commission is again in session.

MR. KAUFMANN: Just before recess we were talking about your knowledge of the imminent war with Russia. My question to you was, what were the facts which gave you that knowledge of the imminent war with Russia? Could you please answer that question?

A The expression is wrong. I had no knowledge of the imminent war with Russia. I said that from the most varied press reports and from statements and from rumors and other things the assumption arose that the relationship between Germany and Russia had fundamentally changed.

Q His knowledge about the possibility of imminence of war with Russia was generally prevailing at that time within your circle?

A Within our little circle in the VOET, the opinion was that we were heading towards another catastrophe.

Q Now you have stated that you got the impression or the knowledge that you were heading towards war with Russia through the press for one thing. Now, isn't it a fact that for the months preceding the outbreak of the attack against Russia there were absolutely no items in the press concerning Russia from which you might have drawn any conclusions of a possibility of an attack against Russia?

A No, but one heard from troop movements, and the whole line of rumors which excites the population even today, of course, was prevalent during that time, too, and it was left to the individual whether he would not believe in it as an optimist, or whether as a pessimist he would believe that the rumors would turn to reality.

Q Now you talk about troop movements. Where did you hear about troop movements?

A One heard of increased drafts, and one heard that the

troops in the East were being reinforced. Whether that was correct or not, no one of had any possibility of forming his opinion, but as I said these were rumors.

Q Didn't you know, Dr. Reithinger, as a matter of fact that there were troop movements into Bulgaria at that time that we are speaking about, several months before the attack against Russia?

A No, I do not know that.

Q Dr. Reithinger, did you read the Verbindungsmann reports?

A No, I did not get to see those reports.

Q What reports? Any Verbindungsmann reports?

A No, the Verbindungsmann reports I did not get to see. To be sure, I saw private letters from friends from Southeastern Europe which I received, and these people when visiting their parents, or when they were on leave, spoke of the fact that the relations had deteriorated, but these were not reports of the Farben Verbindungsmann.

Q Now, isn't it true, as a matter of fact, that you received reports regularly which you read from the Verbindungsmann in Roumania, Kugler?

A No.

Q And that in these reports -- you did not read those reports?

A No, I did not receive any reports from Dr. Kugler. It may be that Kugler occasionally wrote a private letter to me, but I cannot even remember that. Dr. Gross wrote me once or twice from Roumania.

Q Didn't you know that in his reports Kugler reported about the troop movements through Roumania into Bulgaria before Germany's attack on Greece?

A No, I do not know that at all.

Q Were you the expert on the southeast, Dr. Reithinger?

A No, we had a branch office in Vienna, and Dr. Gross was the director of this branch office.

Q Were you interested in affairs in the Southeast?

A I was interested in all European matters equally.

Q Were you interested in affairs in the Southeast enough to read the Verbindungsmaenner reports about them?

A Pardon me, I did not understand the question.

Q Were you sufficiently interested in affairs in the Southeast to read the Verbindungsmaenner reports which regularly came into I.G. Farben from Kugler?

A Well, I just didn't read those reports, therefore I am not informed as to what was in those reports.

Q Where did you get your information on Roumania which you set out in a file memorandum which was introduced as Prosecution's Exhibit -- perhaps you can refresh my recollections concerning the exhibit number. Unfortunately I do not have it before me. I believe you referred to it in one of your affidavits.

A I do not know which it is.

Q Do you know what memorandum I am speaking about?

A memorandum that you prepared concerning conditions in Roumania?

A No.

Q A file memorandum?

A A file memorandum? I would assume that Dr. Gross prepared this memorandum because he was the man competent for that.

Q And let me ask you this question, did you ever prepare a memorandum about the political events in Roumania after the outbreak of the war?

A No, certainly I prepared no memorandum about Roumania after the outbreak of the war. At best I could have passed on a memorandum of Dr. Gross, but I prepared none myself because I was not an expert in it.

Q Now, to get back to the basis for your knowledge of the imminent attack on Russia. Where did these rumors come from concerning the troop movements that you had?

A I think part of the rumors was distributed by plan by the Reich Government. At least, I was of that opinion.

Q How was that distributed?

A From mouth to mouth. People were talking about it. For example, I remember one rumor, almost too ridiculous to pass on, according to which German troops were alleged to have written while passing through the Ukraine, and such letters were even shown around. This was particular example for us that this was disseminated by the official agencies, as a useful piece of propaganda, because every sane person could imagine that Russia would not have permitted any passage of German troops through the Ukraine at that time.

Q Did you conclude on the basis of these vague rumors that the possibility of an attack against the Soviet Union existed?

A One had to count on the possibility of a war against Russia, because of the difference between the two ideologies.

Q Now, at the time when you concluded that there was a possibility of an attack against Russia, did you make any inquiry concerning the possibility of that attack?

A No, I did not because I had no possibility to do that.

Q Did you in the course of your work plan for the
eventuality of such an attack?

A No, at that point I did not do that either.

Q Did you make inquiry in the Southeast of Europe
concerning the possibility of that attack?

A No, in no way.

Q You just heard vague rumors that there was going to
be an attack, and you did nothing to strengthen your position
within the Archives -- within VOVI? On the basis of that in-
formation?

A I don't understand the sense of the question.

Q I don't blame you. The question was not clear. Isn't it
true, Dr. Reithinger, that part of your work was to forecast
political trends and events and to prepare data on the basis
of possible changes in political events. Wasn't that part of
your tasks in VOVI?

A It was part of my job in the VOVI to forecast economic
changes. For example, currency changes, general changes, but
this did not go so far that I would have dared to forecast
political changes. Above all, not at a time and under a
government where it was merely a matter of a decision of one
man whether he wanted to do this or not, and in this case any
forecast would have been completely out of place.

Q Now this knowledge about the possibility of an attack
against Russia was so widespread that you were surprised that
Dr. Ilgner did not know about it?

A We were more surprised by the fact that Dr. Ilgner
suddenly came to the question whether Russia would march
against England, because this seemed to us completely out of
the question at the time.

Q Was Dr. Ilgner in the habit of being so politically
naive as to draw such conclusions?

A I can not answer this exhaustively. I can merely say that Dr. Ilgner was always an optimist who did not believe in these things.

* Now, in your affidavit, Ilgner Exhibit 126, you discussed Ilgner's foreign economic policies and concluded that they were in conflict with the economic policy of the Third Reich. Is this Ilgner's personal economic policy which you claim was in conflict with the economic policy of the Third Reich, or was it Farben's policy as expressed by Ilgner, which you claim was in conflict?

A Since I could not get a complete survey over the Farben policies in my position in Berlin, but only knew Dr. Ilgner's general statements or his behavior because I was near him, such a statement can only refer to Dr. Ilgner.

* Now in your activity in VOWI were you pursuing the policy as set forth by Ilgner, or were these just private ideas expressed by Ilgner which were not carried out in the course of his work?

A I believe that through the personal statements of Dr. Ilgner, through the work which he did in VOWI, through his entire general conduct, which one was able to observe over a period of years in Berlin, it is a judgment based on the behavior as one could observe it.

* Was that the policy of your department VOWI? Was the policy of your department VOWI the same policy that was pursued by Dr. Ilgner?

A I believe the whole conversation is going the wrong way. We did not pursue any policy. We collected economic statistics and we kept economic records. We made economic analysis and prognoses.

* Now this economic data and analysis and prognosis prepared by your department, isn't it true, was prepared for the

purpose of coordinating the economic policy of Farben with the economic policy of the Third Reich?

A No, in no way. That is completely wrong.

Q Do you recall preparing a report which contained data set out for the purpose of coordinating the economic policy of Farben with the economic policy of the Third Reich?

A May I ask which report you are referring to?

Q I ask you whether you recall any report whose objective was the alignment of Farben's business policy with the economic policy of the Nazi government?

A No, I can not remember that because even if such a question had been approached as the — I do not remember that we ever made such a report, or that we ever made a suggestion to coordinate Farben policies with those of the Third Reich. According to the distribution of the various business affairs it would not have been our task to do that. I think that the dye department would under no circumstances have tolerated such an interference of view.

Q In that connection I show you Document NI 1514, which will become Prosecution Exhibit 2337. This document consists of excerpts from a draft of a report on the question of the development of the chemical industry in the Southeast Europe, which was discussed by the Southeast Committee, and was transmitted to the members of the Vorstand by you. I direct your attention to page 4 of this document in which it is stated that, and I quote: "The basic point of view which must be the starting point for consideration —".

INTERPRETER: Beg your pardon, we don't have page 4 before us.

MRS. KAUFMAN: It is page 4 of the original document, but you have it perhaps on the first or second page of your document. "The basic point of view—", I am quoting from this document, — "The basic point of view which must be the starting

point for consideration of the business policy of I.G. in relation to Southeastern Europe is the alignment of the interests of I.G. to the aims of the economic policy of the Reich." Now, my question to you is this: Do you recall -- does this refresh your recollection that this report was prepared?

A Well, I can only say that this was not prepared by the VOWI. This must have been a matter for the VIPO.

Q Did you participate in the transmission of this document?

A I signed something when passing on this document.

Q What you claim is "something" is a letter of transmittal of this document, is that correct?

A Yes, that is right.

Q I have no further questions.

DR. BACHM: Dr. Sachse for Dr. Ilgner. Mr. Commissioner, during the cross examination of the Prosecution, an affidavit of this witness here has been introduced among others. This is the Document NI 3763, Exhibit 2332. An objection was made before against this document, because here we have a Prosecution affidavit, the defense has the right to cross examine the author of this affidavit. It is a customary prerequisite that such an affidavit be given to us 24 hours before. This 24 hour limit was not complied with here. Since this affidavit is a part of the cross examination, I take the liberty, in agreement with the other gentlemen, to suggest that the redirect and the cross examination of this witness about this affidavit be postponed until tomorrow.

MR. ANCHAM: May I inquire whether the request of counsel is limited to the single affidavit of the witness which was introduced? In other words, does counsel for the defense request that the redirect examination of this witness be post-poned solely with respect to the contents of that documents or does his request go farther?

MR. BACHMAN: No, my request is that since this document-- that is Exhibit 2332--was a part of the prosecution's cross examination, and to simplify matters, the redirect and the cross examination about the above-mentioned affidavit be postponed until tomorrow.

MR. ACHAM: Well, then, with the understanding that the redirect examination will be completed as to this witness as to everything but the contents of that affidavit, we would have no objection.

MR. BACHMAN: Mr. Commissioner, I may come back to my request once more. I think it is extremely difficult to separate the redirect examination about this affidavit from the cross examination, and I ask again that both be postponed until tomorrow, especially since you, Mr. Commissioner, announced before that the other witness, Spreti, has to be examined here today under all circumstances.

MR. ACHAM: I now understand counsel's application to be postpone entirely the redirect examination of this witness. There is absolutely no reason for that. It is contrary to established practice and we ask that the redirect examination proceed. If we were to accept or follow any such suggestion, the proposition would be this, that when a defense affiant is called and cross examined the defense would ask that they postpone redirect examination, then undertake to confer with him, and after conferring with the witness they would then go ahead and undertake to reexamine him. Any such rule obviously would destroy the whole effect and purpose of cross examination if the witness and his counsel were permitted to confer at the conclusion of the prosecution's cross examination, in order to get together as to what his testimony shall be on redirect.

There has been no compelling reason shown by the defense and there are no unusual circumstances which would warrant invoking any exceptional rule, and I emphasize that to postpone an examination as defense requested they are at least required to show exceptional circumstances calling for such a drastic or unusual procedure. None has been shown.

There are no facts upon which any such showing could be made, and we therefore request Your Honor to direct the examination to proceed. We are prepared to conclude the examination of this witness at this session.

THE COMMISSIONER: Do you have anything further?

DR. BACHMANN: No, I have nothing to add.

THE COMMISSIONER: The way I understand it, counsel for the defense first asked that he be permitted to continue until tomorrow the examination on a certain affidavit that was introduced by the prosecution.

DR. BACHMANN: I had requested that the redirect as well as the cross examination be postponed.

THE COMMISSIONER: Well, I see no serious to postpone that. Now, I understand that we have a witness that we have to examine. Some attorney has to leave today and we want to examine the witness this afternoon. I believe Dr. Gierlich has to leave. Dr. Mueller phoned me and he said there was some witnesses, or two witnesses, that we would have to examine today because some counsel had to leave and be gone tomorrow.

DR. ALTMAN: The question of convenience of counsel is a different matter, that is discretionary with both counsel to arrange, but this is a fundamental point which the defense is raising. There is a witness on the stand who has been cross examined, and he should not be permitted to have his redirect examination postponed so that he can confer with his counsel, merely because one defense counsel, merely because one defense counsel for his own convenience would like to put on another witness.

I suggest, if Your Honor please, that we follow the usual and established practice to conclude the examination of this witness and when his examination is concluded we call the next witness who is available. Otherwise, we will never be able to conduct these proceedings in an orderly fashion and we would interrupt every examination for the convenience of twenty-four counsel that we have to deal with here.

THE COMMISSIONER: Now, I think he has a right to continue until tomorrow the redirect examination on the affidavit, and we will take that up tomorrow.

We will go ahead with the examination this afternoon, as far as we can and we will continue tomorrow the part of it on the cross examination on the affidavit that was introduced today. So, you may proceed.

REDIRECT EXAMINATION

BY DP. ZACHWAL:

Q Dr. Reithinger, in your affidavit -- that is Ilgen Document 34, Exhibit 37, -- you described the history of the development of the VOMI in detail. Is it correct that the trips that you made and that the prosecutor mentioned, that is the trips to America and to the Balkans, fall into this early period of the VOMI?

A Yes, the VOMI was founded in 1929 and the trips as far as they are mentioned here took place in 1933.

Q Did the VOMI at that time concern essentially with currency observations and general economic comparisons?

A To 95%, yes.

Q And were you in this connection in America and later in the Balkans?

A I was in America specifically in connection with the devaluation of the dollar and I was in the Balkans specifically for general economic questions and for the question of increasing the export trade.

Q May I ask you, in connection with your last answer, for what reasons was the increase of the export trade necessary or why did it appear so?

A Because of the currency devaluations in southeastern Europe all the Marten funds there were frozen. Therefore it was necessary to start general economic investigations to see to what these frozen funds could be unfrozen and how far the German export trade to those countries could be maintained.

Q Is it correct that this trip was made after a trip in the preceding year that Dr. Ilgen made together with Dr. Roth?

A This connection is not absolutely established.

Q: As to Exhibit 2332, which you were shown - this is your letter to Dr. Laedtke - I only want to ask you how is the expression which you used in this letter to be understood -- that is, the expression "clarifying for the German cause"?

A: I do not have this letter in front of me. I saw it shortly before and I saw that it had no signature. I consider that it was a routine letter which had been beforehand prepared -- oh, yes, it was signed, by hand, as I just saw. In answer to your question, I would say that this was a very general form with which one got rid of such undesirable letters. I don't think that I ever saw Mr. Laedtke later. As I said, the very name of "Laedtke" or whatever this name is supposed to represent is completely unknown to me. This is one of the many thousands of letters which I received in my ten years' activity from people who wanted something and whom one could get rid of by a routine letter, and one would say in these routine letters for courtesy's sake, that one would comply with this wishes in general and then one would just forget about the letter.

Q: Did you, as the prosecutor said before, make propaganda for the Nazi system on your trip to the U.S.?

A: I neither engaged in propaganda for the Nazi system nor did I talk a lot about Germany there because I had a very specific job to do and that was to explain our arguments to our American friends. That is, our arguments as to why we were forecasting the devaluation of the dollar, and I may add that such conversations were generally avoided if possible because at that time the foreigners were much more enthusiastic about our conditions at home than we were and for us such conversations were as a rule very difficult because we could not really describe the actual conditions as we saw them because, considering the ignorance in the foreign countries about us, we would have only incurred a great danger by doing that.

Q. Dr. Reithinger, about the next document, Exhibit 2334, this is the letter of the sales combine Dyestuffs Farben, Frankfurt to Dr. Moenius, Istanbul. I would only like to ask you the following: is the conclusion which the prosecutor drew before correct that you went to the Balkans in an official capacity?

A. No, this is not correct. It was a completely unofficial capacity.

Q. What do you mean in an unofficial capacity?

A. We had no orders from any official agency, and I may add that the result of our trip to the southeast at that time was my book "The Economic Face of Europe," and this book appeared in 1935 in which the first scientific proof of the over-population of southern Europe was taken as the scientific counterproof throughout the south and southeast against the German "Drang Nach Osten", and was enthusiastically received as such. It was expressly an attempt to prepare the economy of southeastern Europe for more intense activity and thus to make possible a peaceful development of Europe.

Q. I just hear that several times the expression "wissenschaftlich" which the affiant used was translated as "economic"; it should be "scientific".

Dr. Reithinger, I want to come back to the work of the Völk during the war. You spoke before the agreement which Dr. Arueger made with the OKW. Could you very briefly tell us how this agreement came to be made?

A. I was informed by Dr. Arueger to the effect that the armament economical staff had tried to take over the entire Völk and that he had succeeded in his negotiations to prevent this and only to draft a part of the associates. I was requested by him to make available a list of the people thus drafted.

Q. So that if I understood you correctly, one can speak less of an agreement of a draft, then by the OKW?

A. One could say it that way. One could say that the draft was lessened by an agreement with the OKW.

C. Dr. Reithinger, do you have Prosecution Document HI-8619 in front of you?

A. What is its content?

C. This is the letter of the OKW Armament Staff to the various departments of the OKW.

A. No, I don't have that in front of me.

C. Then I will give it to you. When the prosecutor asked you about this she asked you whether this document does not reflect that discussion which you allegedly had together with Mr. Fernau and Mr. John on 24 August 1939 with the OKW. I ask you whether one can gather from the document that this happened on the 24th of August.

A. Not from this document, but from another --

C. I am just asking you about this one.

A. No.

C. Is this document the final agreement which Dr. Krueger made and which you just described?

A. No.

C. When did this agreement take place?

A. I think that the agreement of Dr. Krueger was somewhat later.

C. Do you know the date?

A. Unfortunately, I do not, because I was only informed about it by Dr. Krueger.

C. One other question about this, Dr. Reithinger. Was the agreement of Dr. Krueger before or after the war?

A. In my opinion, it was after the outbreak of the war.

C. Dr. Reithinger, do you have Prosecution Exhibit 2,336 in front of you? This is the note which was addressed to you, dated 23 May 1934. It concerns documents about a letter of Dr. Ilgner to Major Thomas.

A. Yes.

C. Is it correct that this is merely an internal file -- within Farben, Berlin W/7?

A Yes, this is merely an internal file note.

Q Do you know whether the letters mentioned in this file note were actually written?

A I do not know.

Q Is it correct that these letters of the drafts for these letters referred to wishes which Major Thomas has uttered?

A According to the contents of the document, without a doubt.

Q Reithinger, did the V&I, depend on the statistical material which it needed for its scientific investigations? I will repeat the question. Is it correct that the V&I depended on or received the scientific data for its investigations from the official agencies for example from the army ordnance office.

A If one includes the statistical branch office, yes, of course.

Q But not from other agencies?

A No, not from other agencies.

Q Dr. Reithinger, then I shall briefly go into questions which you were asked in connection with your affidavit. Ilse Document 160. This is the Russian affidavit. In her questions, the prosecutor always pointed out--or rather asked--you as to your knowledge about the aggressive war against Russia. Did you mean in your affidavit and in your testimony today your knowledge about an aggressive war, or your knowledge merely of an impending collision or conflict?

A Our assumptions about an conflict impending were left completely open as to whether the attack would come from the German or the Russian side. It was only obvious that the relations had deteriorated.

Q So that you feared a conflict?

A Well, at least that was considered one.

Q In that connection, you were repeatedly asked for forecasts which the V&I allegedly made about political changes. I would like to ask you whether the V&I at all concerned itself with political matters?

A The VCM basically made no political prognosis or elaborations but it had to inform itself about the political conditions in order to make its economic prognosis. May I give you an example? A typical example was the currency devaluation in America in contrast to the English situation, when devaluation the Pound Sterling, the devaluation of the dollar was not economically necessary, but it was a politically desirable measure. As a result, the basis of the dollar devaluation was a result of the political influence of the farmers and of the silver producers in the election of Roosevelt. This is a typical example that such political election observations could not be separated at that time from what the President of the United States and his brain trust would in the future undertake.

Q Do I understand you correctly that these observations of the political situation merely were only one of the bases of your scientific elaboration?

A Yes, it was one of those bases which was necessary.

Q Now, I am just told that before the expression used by the witness, the expression "in rechnung stellen" was translated with "counted on". This is, of course, not correct. It is "to consider".

As for the last exhibit, Dr. Reithinger, this is NI 15174, exhibit 2337. I would merely like to ask whether you know this elaboration which is listed here?

A I do not have it in front of me, but I assume that this is the work which had my signature with an accompanying letter.

Q Yes.

A In the distribution of the work between the VOMI and the WIFO it was customary that the VOMI would make available general statistics or economic data.

Q Now I ask you once more, do you know these statements in general, these papers?

A I do not think I know them in detail.

Dr. YACHEM: Then I have no further questions about these points and I would like to reserve the right to ask questions about the witness's exhibit 2332.

BY DR. HOFFMANN (for von Der Heyde):

Q Witness, about your affidavit which was introduced, NI-3763. Do you have that in front of you?

A What number was it?

Q NI-3763.

A May I ask what the contents are?

Q Do you have it there?

A No, I have only one document book where these numbers are not listed.

MR. ALCHAN: If Your Honor please, the affidavit that Counsel

is inquiring about is exactly the affidavit which they have asked to have deferred until tomorrow. After undertaking to examine as to that, they should complete it today. I do not think they can examine half today and half tomorrow.

DR. ASCHENAUER: Mr. Commissioner, I shall not begin the cross examination today.

THE COMMISSIONER: Now, the one we are deferring until tomorrow, so don't anyone question him on that today. We will continue with that tomorrow. If we do question him on that today, then it would mix things up, so we will not question him on that until tomorrow.

MR. ANCHAN: If I understand it then, there is only one thing left open on redirect examination which is exhibit 2332, and the defense counsel has exhausted their examination on every other subject matter but on that one exhibit. I want to be clear on that.

THE COMMISSIONER: That's the way I understand it. Is that correct? That is correct. The only thing we have left is the one exhibit.

Any redirect?

MISS KAUFMAN: No redirect.

MR. ANCHAN: No redirect subject to cross examination.

THE COMMISSIONER: It is practically quitting time now.

MR. ANCHAN: We are ready to take the next witness, and I do not think it will be too long.

THE COMMISSIONER: How long will it take?

MR. ANCHAN: There is a possibility we may be able to conclude his examination before twenty minutes.

THE COMMISSIONER: This witness is excused until tomorrow morning, 10:00 o'clock.

Is the Counsel ready for the witness?

DR. GIERLICH: Yes, sir.

THE COMMISSIONER: Witness, will you raise your right hand,

and repeat after me.

I swear by God, the Almighty and Omniscient, that I will speak the pure truth, will omit or add nothing.

THE WITNESS: I swear by God, the Almighty and Omniscient, that I will speak the pure truth, will omit or add nothing.

THE COMMISSIONER: You may be seated.

DIRECT EXAMINATION

BY DR. GIERLICH (for Geheimrat Schmitz):

Q May I ask you first, Count Spretty, to state for the record, what your full name is, and your present residence?

A. Rudolf Count von Spretty, Hochschloss Pahl, Upper Bavaria.

Q Count Spretty, do you have the affidavit of 11 January 1948 which you made out for the defense of Geheimrat Schmitz before you?

A. Yes.

Q Did you have an opportunity in the last few days to read this affidavit through?

A. Yes.

Q Do you have the desire to change this affidavit in any way, to add to it or to correct it?

A. No.

DR. GIERLICH: Then I have no further questions, and the witness is at the disposal of the Prosecution for cross examination.

CROSS EXAMINATION

BY MR. ANCHAU:

Q Mr. Witness, when did you become the son-in-law of Arthur Weinberg?

A The son-in-law of whom? On 16 October 1911.

Q Now, from the period of say beginning with 1938 and thereafter, where did Arthur Weinberg reside?

A Arthur von Weinberg had to give his house, Buchenrode, in Frankfurt to the City. He was compelled to do that. It was intended,

at that time, that he would have a few rooms to occupy in the apartment of his second daughter, also in Frankfurt-am-Main, and during this time he moved into my wife's name, Hochschloss Pehl, in Upper Bavaria.

Q When was that?

A That was in 1938. As far as I remember, in the summer of 1938. From that time on, with just a few interruptions, he remained at Hochschloss Pehl, Upper Bavaria.

Q To make sure that I entirely understand you, Mr. Witness, is it a fair statement to say that beginning with the summer of 1938, until the date when Arthur Weinberg was taken into a concentration camp, that he lived with you? Is that a fair statement of the situation?

A Not with me, because I was living in Hoppegarten near Berlin, but with my wife and daughter who, during that period, were living in Upper Bavaria, Hochschloss Pehl, and for the express reason that my wife was of the conviction that my father-in-law would be happy in the country in Hochschloss Pehl in Upper Bavaria, and could live more in peace than he could anywhere else. It may be that now and then, once or twice, perhaps three times, he went to Frankfurt for a short time, but his residence was in Hochschloss Pehl.

Q Now then, at the time Arthur Weinberg resided and stayed with your wife at Hochschloss Pehl, were you living there at the same place?

A I did not. I was living in Hoppegarten, near Berlin. I personally, that is. But Hochschloss Pehl belonged to me.

Q I am really not intending to inquire into your personal affairs, Mr. Witness, I am only interested in knowing whether, during the period that Arthur Weinberg lived with your wife, you were present at the house, and I only ask that to test your knowledge of the facts of this matter, I am not interested in your personal affairs, I assure you.

A Before the war, as long as one could drive a car, I often drove from Hoppegarten to Pehl in order to visit my wife and father-in-law, and I stayed there for a few days each time in Pehl.

Q When did Arthur Weinberg first have difficulties with the Nazi officials because of his Jewish faith?

A That began soon after the promulgation of the Nurnberg Laws. Arthur von Weinberg also had some racing stables, which the Nazis were very keen on, and they wanted to get them into their own hands. If I remember correctly, it was in 1937 when I suggested to my father-in-law that he transfer his racing stables to the ownership of the pure Aryan adopted daughter, my wife, and, in this manner, to prevent the Nazis from getting their hands on them.

DR. GIERLICH: Pardon me, but the answer was not correctly translated in English. Since it seems very important to me, I would be very grateful if the Count would repeat the answer.

THE WITNESS: The whole question?

MR. ANCHAN: One moment, please. Since it is a subject that is a little afield, if counsel will indicate just what part of the translation came through incorrectly, I think we can probably agree as to that. The subject matter is not important enough to have him repeat, unless the defense counsel wants it again.

DR. HERLICH: I attach importance to the fact that the last sentence, which referred to the suggestion of the transfer of the property to the Aryan step daughter and adopted daughter of Count Spretty, should be repeated, because the family relationships did not appear in the English translation.

THE WITNESS: I assume that, in 1937, we had the feeling that the National Socialists wanted to get their hands on these stables in order to be able to make propaganda for their cause, as they actually did later in the same manner with the stables of Count Oppenheim. At that time I suggested to my father-in-law that the stables and the race horses should be transferred to his step daughter and his adopted daughter, who were pure Aryans, and in this manner to prevent the Nazis from getting their hands on the properties.

DR. GIERLICH: I beg your pardon, Mr. Commissioner, but if the Prosecution attaches any importance to this, it must get into the record properly. The step and adopted daughter are one and the same, and not two people, but one person. The step daughter and the adopted daughter is one person.

BY MR. ANCHAN:

Q I think we have got enough of the race horses. Now let me ask you, do you know when Arthur Weinberg left Farben?

A That was either in 1937 or 1938.

Q He was a member of the Aufsichtsrat then?

A He was a member of the Aufsichtsrat and the Verwaltungsrat.

Q Now, do you know of your personal knowledge the circumstances connected with Weinberg's leaving Farben? First tell me whether you know it of your own knowledge, and if you do, then go ahead and tell me the circumstances.

A I only have the knowledge that my father-in-law discussed it with me personally.

Q Can you fix the time of that discussion?

A I cannot do that under oath, it must have been in 1937 or 1938.

Q O.K.

A He discussed this matter with me on the occasion of a stay in Hoppegarten.

Q What did he say to you?

A He told me approximately this: "As a result of the Nurnberg Laws, and as a result of my continued presence in Farben, such difficulties have arisen that I shall now drop everything."

Q Did he tell you what difficulties?

A Well, he did not tell me anything. The sense of it was that he was a Jew and that difficulties arose from that fact.

Q Difficulties arose where?

A Farben, on the one hand, and, on the other hand, for himself and his work there.

Q Well, did he tell you that he had personal difficulties with his colleagues at Farben?

A No, he had no difficulties with his colleagues.

Q I am afraid I don't understand you. If he had no difficulties with his colleagues, why was it difficult for him in Farben? Did he tell you that?

A We did not discuss this in detail.

Q All right, let's move along. And after he left Farben, you say around '37 or '38, he went to live with your wife, is that right?

A He lived in Pehl, yes.

Q Now, you state in your affidavit that you had several conversations with Geheimrat Schmitz about the fate of Arthur Weinberg. Tell me when you had the first conversation with him and the nature and substance of that conversation.

A My father-in-law had unlimited confidence in Geheimrat Schmitz.

Q That isn't responsive, Mr. Witness.

A No.

Q I am asking you to tell me whether you had --

A I have not yet finished.

Q Yes, but please, Mr. Witness, listen to the question and try to make a responsive answer to the question and not undertake to

go into collateral matters. The question put to you is, when do you recall having had your first conversation with Geheimrat Schmitz about Arthur Weinberg?

A I assume that this took place after my father-in-law had retired.

Q And that is about the same time when he left his Frankfurt home and came up to live with your wife?

A It might have been during 1938. We were of the opinion that it would be proper if my father-in-law would transfer his entire property to his two adopted daughters, because I myself told him at that time that the less money and property he had, the more uninteresting he would become for the Nazis, and, I said, "At any rate, your two daughters are obligated to support you in every respect." Then, since my father-in-law had been accustomed to discuss financial matters with Geheimrat Schmitz, and since he could not go to Berlin personally at that time, I went to see Geheimrat Schmitz in order to discuss this question with him.

Q So that same time in 1938 you went to see Geheimrat Schmitz?

A I visited him several times.

Q Was that the first time, in the summer of 1938? Now please, Mr. Witness, first listen to the question.

A Yes.

Q And I think you will do better with respect to making your answers.

Do I correctly understand your testimony, then, to be that some time in 1938 you conferred with Geheimrat Schmitz for the first time with respect to the affairs of your father-in-law Arthur Weinberg? Is it correct so far?

A I assume that that is so.

Q Now, am I also correct in understanding that at that conference you discussed with Geheimrat Schmitz the question of having Arthur Weinberg transfer his property to his two adopted daughters,

one of whom was your wife, is that right?

A I had discussions with him in order to get his opinion on the matter.

Q Did Arthur Weinberg accompany you, or did you go yourself?

A No, I went by myself.

MR. ANCHAN: This might be an appropriate point to suspend. I don't think we can finish tonight.

THE COMMISSIONER: You can't finish up tonight?

MR. ANCHAN: No.

THE COMMISSIONER: What time shall we meet tomorrow?

MR. ANCHAN: Ten o'clock tomorrow morning is agreeable all around.

THE COMMISSIONER: Very well, the Commission will be in recess until ten o'clock tomorrow morning.

(At 1645 hours, 29 April 1948, a recess was taken until 1000 hours, 30 April 1948.)

1048
30 April-M-107-1-1-Mills (Int.von Schon)
COURT VI, CASE VI

Official Transcript of Military Tribunal VI, Case VI in the matter of the United States of America, against Karl Krauch, et al, defendants, sitting at Nuernberg, Germany, on April 30, 1948. Justice Shake presiding.

THE MARSHAL: Persons in the Courtroom will please find their seats. The Honorable the Judges of Military Tribunal VI, Military Tribunal VI is now in session. God save the United States of America and this Honorable Tribunal. There will be order in the court.

DR. ASCHENAUER: Mr. President, I ask that the defendant Gottineu be allowed to attend the meeting of the commission this afternoon.

DR. NELTE: Mr. President, I merely want to report an agreement has been reached with the competent authorities that the defendants who so desire may, tomorrow forenoon, beginning at 0930, go to Room 316 where they will have an opportunity to examine the documents made available by the prosecution.

THE PRESIDENT: Dr. Nelte, I assume that you have these slips that indicate the nature and character of the documents. If you have not, tomorrow is a Saturday. You had better get possession of those during the day or make arrangements that they be delivered to you. You may have trouble if you do not. Anything from the prosecution? You may continue Dr. Siemers.

DR. SIEMERS: Your Honors, I had stopped yesterday in the presentation of Document Book 2 of Schnitzler. The last document which I had offered was Number 31 as Exhibit 34. I now offer Document 203 as Exhibit 35. This is an affidavit of Dr. Max Winkler regarding the advertising agency "Ala". The prosecution has submitted this company as circumstantial evidence under Count I, war of aggression. The affidavit shows that Dr. Winkler was economic trustee and he such negotiated with the Hugenberg concern about the purchase of the Ala and subsequently did purchase it. Winkler also mentions the Aufsichtsrat on page 45 at the bottom and says that it was composed on a purely economic bases. There were Representatives of industry, including Dr. von Schnitzler — various industries, the cigarette industry, Ruhr industry, Baron von Vexkuell,

insurance companies, and so forth. I should like to refer to the last paragraph saying that Ala had nothing to do with any political tasks.

Mr. President, Mr. Sprecher has asked me to point out in this connection that Dr. Winkler, later, during the war, became head of the Main Trusteeship Offices. That is not mentioned in this affidavit because this has nothing to do with his work in the East. I have another affidavit from Dr. Winkler giving the details. I shall offer this later.

We now come to Document 32 which I offer as Exhibit 36. This is an affidavit of Ferdinand Baerecke. Baerecke was business manager of the German group of the International Chamber of Commerce from the time it was founded. I offer this to illustrate Dr. von Schnitzler's activity in this field. As a member of the German group of the International Chamber of Commerce. The fourth sentence of the affidavit reads as follows: "Since Mr. von Schnitzler had special experiences in the field of exhibitions and fairs, particularly also of international exhibitions and fairs, he was elected chairman of the Committee on Fairs and Exhibitions at the International Chamber of Commerce in Paris. I know very well that in this capacity when dealing with problems he was always guided by the rules of the International Chamber of Commerce." I need not read the rules of the International Chamber of Commerce. They are given in the document. At the end here Baerecke says that he was guided by the aim of a loyal international economic collaboration. Here Baerecke, like many others, says that after his conversations he can not imagine that Schnitzler could have known anything about the coming war or could have participated in preparations for it.

The next document is Number 5 which is already in evidence as Exhibit 5. It was put in evidence during the examination of Dr. Schlotterer of the Reich Ministry of Economics, in connection with Schlotterer's testimony about the New Order. It was put in evidence to show that such inquiries from the Reich Ministry of Economics, in this case, about the international cartel regulations, were sent not only to Farben or a few

very big firms but to many firms. In this case for instance they were sent to eleven different firms listed on page 50.

The next document is Schnitzler Number 3 which is already in evidence as Exhibit 3. I offered it during the examination of the witness, Dr. Julius Overhoff. I need not comment on it at this time. The Tribunal will perhaps recall it. It is on page 53. You will find there a list made by Dr. Overhoff about twenty-two leading Farben representatives abroad. He explained about these various men. Only three of them were in the Party. It is in connection with the Foreign Organization of the NSDAP.

The next document, Number 4, is in evidence as Exhibit 4. It was also offered while the witness Overhoff was on the stand, 26 January 1948. The letter of the Foreign Organization of the Party, attention Kommerzienrat Weibel, regarding the dismissal of Kurt Flinsch, the manager of the Companie de Anilines Allemandes, Buenos Aires, shows that Weibel, diplomatically, carefully, but definitely refused the request of the A.O. because of his negative attitude toward National Socialism.

The next document is Number 33 and I offer it as Exhibit 37. It is an affidavit of Benno Becht. You will find it on page 61. It deals with the so-called statements of loyalty. The Tribunal will, perhaps, recall that because of the tension between the Foreign Organization and Farben, Kommerzienrat Weibel made an agreement with the Foreign Organization to protect Farben's interests and this agreement was offered by the prosecution. The declarations of loyalty which Farben promised to have signed were, as Dr. Overhoff testified, never signed as far as he was concerned, only perhaps in a few rare cases. For example, in 1938, after the agreement, Becht was sent to Shanghai and did not sign any such declaration. He says on page 61: "Neither did my superiors issue any orders or directives to me in connection with the political attitude I was to adopt at my new place of work. I state expressly that I was not a member of the NSDAP nor of any of its formations."

Document 34 is offered as Exhibit 38. It is a similar affidavit of Franz Eilers on page 63, who worked for the sales chemicals combine and in 1938 was sent, as a specialist, to Turkanil, the Farben agency in Constantinople. He also did not sign any declaration of loyalty and was not asked to do so. I should like to quote from the last paragraph of the affidavit: "On the other hand I can state that the management of the sales combine dyestuffs in Frankfurt, on the occasion of an intrigue started by a fanatical party member against the second partner of the Turkanil, took the side of the attacked partner by dismissing this party member."

I offer Document 35 as Exhibit 39. It is an affidavit of Dr. Rolf Magener who, in 1938, went to British India for Farben, and who again did not sign any declaration of loyalty, and received no orders for his political attitude.

The fourth and final one of these affidavits is Document 36, Exhibit 40. It is an affidavit of Ernst Osborn who returned at the beginning of the war and in 1941 went back to Paris. He again did not sign any declaration of loyalty. The Tribunal will see that I have merely presented some examples coming from quite different fields of work and quite different countries in order to give an over-all picture without having to offer an enormous number of statements.

Document 37 is an affidavit of Albrecht Focke. I offer it as Exhibit 41. He was a counter-intelligence officer in Cologne. Consequently the affidavit is connected with the evidence presented by the prosecution regarding the alleged close collaboration of Ferben with the counter-intelligence service. The first paragraph on page 68 reads: "As I remember, I approached Herr von Schnitzler on one occasion at Frankfurt in 1939, when I was still a counter-intelligence officer at Cologne, with the request for cooperation in a matter of counter-intelligence work. My request was courteously but coolly turned down. Full of vexation, I then complained to Colonel Bloch in Berlin. The incident petered out." The next paragraph says that he once made a speech in 1944 and on this occasion saw Mr. von Schnitzler. I quote the second sentence of the second paragraph: "My dissatisfaction with the poor cooperation of Ferben with the competent counter-intelligence offices, reported to me by my economy officials in the various counter-intelligence offices, had caused me to hold this lecture. I can not say that the lecture was a success. Neither could the local economy officials of the counter-intelligence offices report any success." Then I should like to bring the next part of the affidavit to your attention, not because I consider it important but because the prosecution has brought up these things in connection with Major, later Colonel Bloch. "The name of 'Gesellschaft fuer Verkaufsordnung' in connection with counter-intelligence or in connection with the name of von Schnitzler is unknown to me. I have no recollection of any such Gesellschaft whatsoever. Colonel Bloch has not left me any information in regard to this. The letter of Lt. Colonel Bloch of 13 April 1943 to Mr. von Schnitzler (NI-650, Exhibit 940.) in which he notified him that I would become his successor, as far as I knew Bloch, was a social gesture typical of him. Such letters were written by Herr Bloch at the time he left the counter-intelligence branch, to quite a number of eminent persons in government and business, especially when official-social connections were involved. I know of no reason for special gratitude towards Herr von Schnitzler."

Document 38, Exhibit 42, is an affidavit of Karl von Heider. As has been said, Herr von Heider was commercial titular director of the Von Heiden firm.

DR. VON KELLER: May I point out to the translator that Mr. von Heider was titular director of I. G. Farben and not director of Von Heiden.

DR. SIEMERS: Mr. von Heider describes the difference of opinion between Schnitzler and the Betriebsobmann of the Party in the Farben building in Frankfurt. He points out that he also knew von Schnitzler in Frankfurt and then had more to do with him when von Schnitzler, in 1944, took over the sales combine chemicals. At the bottom of page 70 he points out that Schnitzler always spoke unfavorably about National Socialism and its leading men — especially Ley and Gauleiter Sprenger. Sprenger was the Gauleiter at Frankfurt. On page 71 he speaks of the differences with the Betriebsobmann Grosch who was a National Socialist and as such endeavored to get the golden flag for the Frankfurt office.

I now refer to the last paragraph on page 72 and quote: "In connection with my work as a counter-intelligence agent for the administration building of the I. G. Fruensburgplatz, wherein I was not a subordinate of Dr. Schnitzler, though I had to keep him informed, Dr. von Schnitzler fully sanctioned my attitude of putting up a determined resistance against having the I. G. organization — especially its representatives abroad — engage in espionage work, referring to an agreement to that effect with the OKW."

The Tribunal will perhaps remember that this agreement with the OKW was already mentioned earlier.

Document 39 is an affidavit of Professor Dr. Carl Luer — Exhibit 43, Professor Luer was a member of the Vorstand of the Dresdner Bank and president of the Chamber of Commerce in Frankfurt. I may add that he was accidentally called Gau Economic Advisor here in this room recently, but as far as I am informed and as far as this affidavit shows he did not actually hold this position. Professor Luer speaks first of

all of Schnitzler's appointment as Wehrwirtschaftsfuehrer. In the second paragraph on page 73 he says: "In 1942 the chief legal advisor of the industrial department in the Frankfurt chamber of commerce, Herr de la Roi told me that he had to call on Dr. von Schnitzler, as the latter had been appointed Wehrwirtschaftsfuehrer, War Economy Leader, by the Reich Minister of Economy through the agency of the industrial department of the chamber of commerce. This appointment as war economy leader was a natural outcome of Herr von Schnitzler's position in industry. The appointment by the Reich Minister of Economy was only an award." Professor Luer mentioned that in many other cases too someone was appointed Wehrwirtschaftsfuehrer without special application — for instance the presidents of the Chamber of Commerce, and also Geheimrat von Opel, on his seventieth birthday, for example, which no doubt shows especially clearly that this was only a distinction and nothing else.

I skip what follows. That only says that there was no special work connected with the position.

On page 74 Professor Luer says that he had much social contact with Dr. von Schnitzler, met many foreigners through him, mostly foreign business men or foreign diplomats. For example, the British Consul General Smalbones and other members of the Frankfurt consulate corps. He never met any Party people there with the sole exception of the Mayor of the city of Frankfurt, Dr. Krebs, who, as Professor Luer says, was known to be in constant disagreement with the Gauleiter and has now been classified in Group 4 by the de-Nazification Court. Mr. Luer says as a result of numerous conversations in the von Schnitzler house he knows that they were opposed to war on the basis of their international attitude and it is out of the question that von Schnitzler knew of or supported any plans of aggression made by Hitler. At the bottom of page 74 I shall quote something about the attitude of Farben and its relation and connections with the Party: "Gauleiter Spronger, who resided in Frankfurt, was on particularly bad footing with Dr. von Schnitzler. He made several attempts to gain an influence on Farben by bringing into the Aufsichtsrat a gentleman with a tendency for National Socialism and party politics. This Farben turned down, however, I can particularly recollect the following significant case: Gauleiter Sprenger, in a conference with Bosch, Krauch, and Schnitz, wanted to bring it about that Herr Aviony should be elected to the Aufsichtsrat as a confidential agent of the Gauleiter; Aviony was Director General of the Nassauische Landesbank, was tied up with party politics, and had close connection with the Gauleiter. The Gauleiter's request was turned down by Bosch and Schnitz. I learned the details at that time from Dr. ter Meer and/or Dr. von Schnitzler." I need not quote what follows. It is another attempt of the Gauleiter, again refused by Farben.

THE PRESIDENT: Dr. Siemers, may I remind you that you consumed exactly ten minutes in the presenting of your Document 39, Exhibit 43. That would not be so much a concern of the Tribunal except for the fact that you have a definite allotment of time and a very large number of doc-

uments. You originally had to your credit two-thirds of a day and Dr. Berndt had one-half day and, on the revision of the schedule, we liberalized those allowances to allow you and Dr. Berndt jointly two days for the presentation of your documents. It is very apparent to me that if you take as much time in the presentation of the documents that are ahead of us that you cannot approach the limitations of time that have been imposed. We feel that in fairness to your co-counsel who have had similar allotments of time and who have kept in it, and in fairness to the Tribunal which has fixed a schedule, that you had better take notice of the situation. I may say to you that if we find ourselves in the unfortunate dilemma that I have suggested, the Tribunal would feel obligated toward the expiration of your time, to merely assign numbers to your remaining documents, and I think it only fair to you to mention that to you at this time so that you may apportion the time to the matters that you deem to be the more important.

DR. SIEMERS: I shall conform to this, Mr. President. I merely ask you to consider that the subject of aggressive war has been presented so unclearly by the Prosecution that it is very difficult to know what point is especially important and perhaps for that reason I have made the mistake of taking seriously some questions which are really not so important. I shall try to proceed as quickly as possible and I believe that will be possible in the next documents.

Document 40 I offer as Exhibit 44, an affidavit of General Thomas dealing with Schnitzler's attitude on his appointment as Wehrwirtschaftsfuehrer. I may merely remind you that General Thomas was co-founder, as he says himself, of the opposition against the Hitler regime.

Document 41

MR. SPRECHER: Mr. President, we don't make an objection to this affidavit. I take it Dr. Siemers will agree that General Thomas is now dead, and we merely want to point out that this man was head of the Military

Economy Division of the High Command with all that that means. I take it, your Honor.....

THE PRESIDENT: If there is no objection, there's nothing before the Tribunal. If there is, the policy of the Tribunal has been well defined.

MR. SPRECHER: Mr. President, I understood that one of the means open to some one who wished to argue about the affidavit of a deceased affiant was merely to point out to your Honors that the gentleman was deceased and ask you to consider that in weighing the affidavit.

THE PRESIDENT: Very well.

DR. SIMERS: I concede that General Thomas is dead.

I offer document 41 as Exhibit 45, an affidavit of Karl von Heider. I need not quote from this affidavit. It deals with the functions of the Commercial Committee, the so-called KA.

Document 42 I offer as Exhibit 46, another affidavit of von Heider concerning the sales combine chemicals. I ask you to note that Mr. von Heider describes the extensive field of the combine with 4600 sales products and points out that Dr. von Schnitzler, with the best of intentions, could not survey this entire field since he joined only in 1944.

As document 43, Exhibit 47, I offer an affidavit of Dr. Struss concerning Schnitzler's attendance at the TEA meetings.

The last document in this book is Document 44, Exhibit 48, the German English Industrial Discussions of March 1939 from the magazine Stahl und Eisen of 23 March 1939. These were very important negotiations between German and English industry. Mr. von Schnitzler participated. On the 16th of March that led to the joint declaration of the industrial representatives on both sides which is given in this book. I ask the Tribunal to take notice of the significant details and the attitude of German industry. I shall not quote from the document:

I now come to Document Books III, IV and V which belong together, all of them dealing with Francolor.

The first document is #43, Exhibit 49, an excerpt from the book "Histoire d'une Negotiation" by Rene P. Duchemin, who has been mentioned here so frequently. M. Duchemin says in this book, on page 1 second paragraph, after first speaking of the meeting in Wiesbaden in November on the Armistice Commission: "This invitation was apparently the result of a request addressed in August 1940 to the Armistice Commission, by Messrs. Rhein and Vaucher, co-workers of Mr. Frossard without the knowledge of the latter, desiring to be called to Wiesbaden should questions be handled there that were of interest to the sphere of dyestuffs." I believe this statement of Duchemin refutes the prosecution's contention that Farben forced the Frenchmen to come there.

MR. SPRECHER: Since Duchemin is available for a questionnaire, we think that this type of evidence, written by a Frenchman, during the time of the German occupation in France, is quite dangerous, but merely with that note to the Tribunal and given the overall circumstances of the time, we will not make a formal objection.

DR. SIEMERS: I may only remark that I believe that statement from earlier years is the best evidence, not an inquiry made now.

THE PRESIDENT: Gentlemen, just a moment. Please let's not consume very valuable time here in statements to the Tribunal that are argumentative in character. That applies to what the prosecutor has said and it likewise applies to what you are now saying, Dr. Siemers. We will permit you to argue those matters at the proper time and I admonish you not to consume the time that you very much need to present your documents, Dr. Siemers.

DR. SIEMERS: Document 46 is Exhibit 50. This is a letter of Duchemin to Major Kolb of 10 December 1940. It contains the request that the Wiesbaden negotiations of 21 November should only be continued between the 15 and 20 of January in view of Frossard's illness. This letter of Duchemin refutes the contention of the prosecution that Farben delayed the negotiations. It shows that Duchemin himself asked for them to be postponed.

Actually, as the prosecution documents show, the negotiations continued in January at the time set by Duchemin, on the 20th.

Document 6, Exhibit 6, is an opinion of Dr. Gustav Kuepper of 17 January 1941 on the German-French cartel agreement of 17 April 1929. That has already been accepted during the examination of Dr. Kuepper and was discussed on that occasion so that I need not comment on it now.

Document 47, I offer as Exhibit 51a. It is a statement by Frossard who has also been mentioned frequently here. It is dated 22 February 1941. It deals with the reliability of the Frenchmen Loncle, Eckenbergho and Cordier as well as disapproval of the action taken against Farben in Paris during the war by some co-workers.

Document 48 I offer as Exhibit No, I beg your pardon, Mr. President. This is the document which the prosecution offered during the examination of Dr. Kugler for identification as Exhibit 2145. It is no doubt correct if I ask that it be made Prosecution Exhibit 2145.

THE PRESIDENT: It would be better, Dr. Siemers, if you give it your own number since it is your own book and let the prosecution's record stand on its own picture. I take it that that document will be Exhibit 52?

DR. SIEMERS: Then I offer it as Exhibit 51. No. 52. It is a memorandum of Dr. Kromer on the discussion with Frossard on 28 February 1941. On page 20 and following it shows the close connection between the Frenchmen and the government men. It shows how much Frossard was interested in forming a joint company for economic reasons. On page 21, paragraph 2, he also says that "he proposes, as soon as the basic decision for the establishment of the company is made, to have an opportunity to send dye stuffs to the unoccupied territories. He will, as soon as possible, take the necessary steps to have Swiss dye stuffs imports stopped."

Document 49 I offer as Exhibit 53, a letter of Bichelonne, Consulting State Secretary for Industry and Commerce, of 14 March 1941, to the Chief of the Economics Department of the Military Administration in France, Michel, which contains approval for the negotiations in the Hotel Majestic in Paris of 12 March 1941. All these documents show that no pressure could have been exerted since the government was always consulted and repeatedly expressed wishes, made conditions, as all the other documents show.

Document 50, Exhibit 54, a letter from Barraud, Office of the Finance Minister, to Michel, giving approval for the same minutes.

Document 51, Exhibit 55, a letter of Farben to Etablissements Kuhlmann at the end of June 1944, together with an affidavit of Dr. Wenk. This is another point. The letter contains the first order of Farben to the three French dye stuffs factories to the value of about two and one-half

million. Please observe that it dated at the end of June 1941, a time when the contract was not completed yet. About five months before the contract was concluded. It shows the interest of Farben and the efforts to support the French dye stuffs factories even before the contract was concluded.

Document 52, Exhibit 56, a letter of the Reich Office for chemistry regarding approval of the orders to the French dye stuffs industry, amounting to 8,000 tons per year, and also approval as requested by Farben for the French dye stuffs industry to be given preliminary products, raw and auxiliary materials. Also an affidavit of Dr. Wenk. This document again shows how extensively the dye stuffs factories were supported.

Document 53 I offer as Exhibit 57. It is the letter of the Central Order Office of the Military Commander granting permission to Farben to place orders with the French dye stuffs factories for 8,000 tons of dye stuffs amounting to 40 million marks.

Document 54, Exhibit 58, file note of Dr. von Schnitzler on the German French discussion on 16 and 19 June 1941. Please observe that this again shows what efforts were made to hasten the proceedings and how all the material supplied by the French was used as a basis. On page 44 and 45 you will find the turnover figures and the contemporary figures show for 1938, 701 million and for 1939, 774 million. On the next page, page 46, we see that taking these figures and the annual normal turnover of 7,000 tons, one agreed upon eight hundred million francs as a basis, exactly the figures given by the French, independently of the fact that as a rule facilities were evaluated with a consideration to amortization. The second part on page 47 shows how the agreement came into existence about handing over Farben stock where Farben, at first, wanted to use a rate of about 200 because that was the exchange rate at the time, but they submitted to the wishes of the French and said 160. The third part of this memorandum refers to taking over the stocks at pre-war prices with a special addition of 13.5%.

Documents 55 to 57 I offer as Exhibits 59 to 61. These are the original statements of the French firms about their pre-war turnover which were taken as a basis for the agreements of 16 to 19 June.

Document 58, Exhibit 62, an affidavit of the Frankfurter Bank showing that the rate of exchange at the time Francolor was founded was 197.5%.

Document 59, Exhibit 63, an affidavit of the Frankfurter Bank on exchange rate between the franc and the mark. Twenty francs equal to one mark. This is necessary to judge the Francolor contract.

Document 60, an affidavit of Muench, Exhibit 64. I ask that special attention be paid to this document. It shows the intrinsic value of Farben shares at the time of the foundation of Francolor, all very carefully explained that according to the property tax statement there was a value of 301 to 304% and according to the tax statements of Farben's income or the corporation tax, a value of 313 to 331%. This does not consider the hidden reserves, participation in other companies, supplies, stocks, patents, trademarks, production processes and good will.

Document 61 I offer as Exhibit 65, a letter from Farben to the Reich Ministry of Economics and the Reich Ministry of Finance dated 26 June 1941. In this letter, immediately after the Paris negotiations of 16 to 19 June, the necessary official approval was applied for immediately by Farben, with reference to normal pre-war conditions as a basis for calculations. I believe this letter shows clearly how Farben tried to hasten matters; that one week after the negotiations in Paris this long complicated contract was submitted in Berlin. There was no procrastination, but exactly the opposite.

Document 62 I offer as Exhibit 66, a letter from the Ministry of Economics to Farben, dated 29 July 1941, wherein Farben's proposals, which I just mentioned, are approved "in the interests of collaboration with the French dye stuffs industry."

Document 63, Exhibit 67, a letter from the Foreign Exchange Office,

Berlin, giving permission for the purchase of 12,750,000 shares in Farben and at the same time, according to request, approves a loan to Francolor for ten million marks.

Document 64, Exhibit 68, a joint letter from Farben and the French dye stuffs factories Kuhlmann, St. Denis, St. Clair, to the French Minister and State Secretary for Industrial Production and Labor, dated 24 July 1941. In this letter the French dye stuffs factories, together with Farben agree, in conformity with a request from the French Minister, not to force other French chemical firms out of the home or foreign markets. I believe this letter and the following ones, which were always drawn up by both partners to the contract, show most clearly that no pressure was involved as the prosecution thinks, but this was a matter of economic collaboration.

Document 65, Exhibit 69, also a joint letter from Farben and the three French dye stuffs factories to the French Secretary General for Industrial Production. In this letter it is laid down that as far as licenses between the German and French groups are concerned, absolute reciprocity should be granted.

Document 66, Exhibit 70, a letter from the French dye stuffs factories, signed by Duchemin, Theumar and Frossard, to the French Director of the Foreign Trade Ministry. The French group confirms that with reference to "our cartel contract of 1927" all the necessary securities for the benefit of the French Group were granted.

I now come to the next document book on Francolor, which is Document Book 4. I offer Document 67 as Exhibit 71. This is a very long letter of the French Minister of Finance Bouthillier to the French dye manufacturers dated 30 October, 1941. The letter contains approval for the forming of Francolor, but after careful checking on the articles of association and giving numerous conditions by the French Government in favor of French economy. For example, securing overwhelming French influence in the administration "the president must always be a Frenchman," prior confirmation of the members of the Verwaltungsrat by the French Government, and the stipulation that all changes should be subject to the approval of the French Government. I ask you to give especial attention to this document in view of the question of the 51 per cent which has been mentioned so much here. As a rule, a person who holds 51 per cent is the majority stockholder, but according to this contract Farben did not have a dominant position.

I offer Document 68 as Exhibit 72. It is a letter of Duchemin, Thesmar and Frossard to the French Minister just mentioned as a temporary answer to his twenty-page letter, with all the many answers.

Document 69, Exhibit 73, is the answer of Farben by Schnitzler and ter Meer to the French Minister, the same person that I just mentioned. This letter is dated 3 November, 1941. Farben states that in the main points Farben agrees to the conditions set forth by the French Minister. Here again no procrastination...The letter of the French Minister was dated 30 October; the answer of Farben was dated 3 November. I don't see how the Prosecution can speak of procrastination.

Document 70, Exhibit 74, is the final reply of the Frenchmen Duchemin, Thesmar and Frossard to the French Minister, dated 6 November 1941. This is, again, an answer to Document 67, Exhibit 71.. Here the French dyestuffs factories, I quote: "confirm our final agreement with the conditions contained in your letter of 30 October". These are the conditions of the Minister which were fully accepted, and they were in the interests of French industry.

Document 71, Exhibit 75, a letter of the same minister for National Economy and Finance, Boutjillier, to the three French dyestuffs manufacturers. In supplementing his letter of 30 October, this same letter, the "minister gives his final agreement under the condition that the agreement is ratified by law."

Document 72, Exhibit 76, French law of 10 December 1941 giving a legal basis to both the legal and the fiscal aspects of the articles of association of the Francolor. It contains 23 articles with the conditions set forth by the French Government, over twenty pages long. It shows how carefully it was worked out by the French.

Document 73, Exhibit 77, Memorandum by Dr. Kramer, 12 December 1941, on the General meeting of the establishments Kuhlmann where the transaction proposed by Dechenin was adopted "practically unanimously" by the stockholders. Here again the correct methods prescribed by corporation law.

Document 74, Exhibit 76: Comment of the Frankfurter Zeitung, the leading economic paper of Germany up to 1943, when it was prohibited by Hitler. This comment was published on 22 November 1941 and deals with the formation of Francolor. "Mutual interlacing by exchange of stock in the framework of the German-French endeavors for cooperation."

Document 75, Exhibit 79: Editorial of the Frankfurter Zeitung dated 19 December 1941 on German-French cooperation in the aniline industry. It is interesting that the Frankfurter Zeitung considers the contract extremely favorable for the French companies, especially in view of the rate of exchange which was fixed at 160 per cent, and further provisions agreed upon, and I quote: "...in order to safeguard French interests."

Document 76, Exhibit 80: Comment of the Swiss paper "Basler Nachrichten" of 22 December, 1941, concerning the aniline dye agreement between Farben and Kuhlmann.

MR. SPRECHER: The Prosecution objects to Schnitzler Exhibit 80 as

well as to the next document, Schnitzler Document 77, on the ground that what a Swiss newspaper may have written about this matter at the time is of no concern to this Tribunal. We have not objected to the two prior documents, which have the opinions of German newspapers of the same time, on the ground that they may add something to the general ethos of this situation.

THE PRESIDENT: Gentlemen, on the assumption which may not be shown, I am not sure, these newspapers were papers that reflected commercial transactions and dealings. The Tribunal is of the opinion that since this was an international transaction, in a sense, between Germany on one side and France on the other, that that might throw some light to some extent upon whether or not this was at least regarded as a pressure transaction or one that was fair and legitimate. Without expressing any view as to the probative value of the evidence, the objection is overruled.

Go ahead.

DR. SIEDERS (Counsel for defendant von Schnitzler): Please consider that in Basel the big Swiss dyestuffs factories are located and the newspapers there have special connections with the Swiss dyestuffs industry, and therefore, especially good insight. It is also interesting that this newspaper says, and I quote from page 76, that the new agreement to a certain extent is based on the agreements existing since 1927, more that 14 years, between Farben and Kuhlmann. That is, the cartel agreement which has been mentioned here before.

The next document is No. 77, and I offer it as Exhibit 81. That is the "Comment of the Swiss paper 'Der Bund,' in Berne, of 30 December 1941, again containing special reference to the pre-war relations and to the fact that the Farben stock "has been fixed at 160 per cent, whereas they were otherwise quoted at 200 per cent."

Document 78 is Exhibit 82, a letter of Frossard to Dr. von Schnitzler dated 30 December, 1941, containing the minutes of a preliminary conference of the members of the Verwaltungsrat of Frencolor, which is

to be on a basis of parity. "The minutes contain the appointment of the directors, Deputy Directors, and Prokurists of the various French dyestuffs factories both in the main offices in Paris and in the various plants. All executives appointed are Frenchmen."

On page 96 we see that the employees and the executives of founding companies, at the suggestion of the president, that is, Frossard, were for the time to be retained...Farben exerts no pressure on this appointment. Attached to the minutes is a plan for the organization proposed by the French. This plan shows that the French are to hold a dominant position in the management.

I now come to the third book dealing with Francolor. I offer Document 79 as Exhibit 83. It is: "French law No. 582 of 2 June 1942, containing the sanctioning of the foundation agreements of the Francolor." Final approval was given about one year after the first orders given by Farben to the French dyestuffs factories. This shows how much Farben did for the benefit of the French dyestuffs factories.

I offer Document 80 as Exhibit 84, a letter from Farben of 27 July 1942 containing the notification about the legal sanctioning of the Francolor agreement.

Document 81, an affidavit of Hans Muench, I offer as Exhibit 85. I asked for this affidavit with a view to the contention of the Prosecution that the one-sidedness of Farben to get a favorable agreement and to exert pressure can be seen from the fact that Farben offered only 1 per cent of its stock capital to Francolor. That sounds very nice, but this affidavit shows that that was absolutely all right, considering the proportion of the value of the factories and the turnover in Farben, and the fact that the dyestuffs turnover in Farben was only a fraction of their total business. The result of this comparison and evaluation of the figures shows that actually Farben gave Francolor not 1 per cent but 1.4 per cent of its total stockholdings, and considering the proportions, Francolor should have received only about 1 per cent for 51 per cent of Francolor stock. That shows how favorable the terms were

for the French dyestuffs factory. And I should like to point out that with this 1.4 per cent Francolor had more stock than any other person.

Document 82 I offer as Exhibit 86. It is an affidavit of Dr. Oskar Loehr, giving three points with explanations. Dyestuffs production of Farben decreased constantly during the war. Two, deliveries of dyestuffs intermediates to the Francolor Works increased during the war; three, more than 95 per cent of the dyestuffs production of the French remained in France or was exported to Belgium, Spain or Portugal by Francolor; only about 5 per cent went to Germany.

I offer Document 83 as Exhibit 87, an affidavit of Dr. Berthold Wenk. Two points: Farben did not take out any apparatus or machinery from the Francolor factories, the only point that could be considered plundering; and, second, Farben's order to the Francolor for 8,000 tons of dyestuffs annually was given before the founding of Francolor, as already proved by documentary evidence.

Document 84 was merely included in my book by me but I shall not put it in evidence. It is the Document 72 for ter Meer.

Document 85 I offer as Exhibit 88.

Now we come to a new subject which is strong evidence for the fact that the French were not under pressure but were acting quite voluntarily.

It is an excerpt from the Trade Register concerning the increasing of the stock capital of the Farben on the basis of the decision made during the general meeting of 11 July 1942, after Francolor had been in existence for over half a year.

Document 86, Exhibit 89, notice for the mother firms of Francolor, signed by von Schnitzler, same date, 11 July 1942. By the adjustment of capital carried out in 1942, Francolor receives further shares in the nominal amount of 3,187,500 marks without compensation. As a result of the increase in capital, which also took place in 1942, Francolor receives the right to subscribe to new Farben shares in the nominal amount of 3,187,500 marks, or, at the discretion of Francolor, the possibility of selling the subscription right, just as is customary with every joint-stock company.

The next documents show what the French did.

Document 87, Exhibit 90, notice of Dr. Kremer about the discussion with Frossard, 3 August 1942, concerning capital increase of Farben. All three French dyestuffs factories wish to participate in the capital increase, that is, they want to acquire the new shares. Therefore, they consider it a favorable business transaction; they would rather get the stock than the money. The French Government, through the Minister of Finance Cathale and Minister of Production Bichelonne, agreed.

Document 88, Exhibit 91, "Letter from Farben to the Reich Ministry of Economics, dated 7 August, 1942, concerning acquiring of new shares by the French of dyestuffs factories. Farben made this application as an exception to the current regulations that the payment be made by the French by way of the German-French clearings. Again an effort to help the French.

Document 89, Exhibit 92, "Letter from Etablissement Kuhlmann to Farben through Duchemin...containing notification that the Verwaltungsrat of the Kuhlmann firm, in a meeting on 12 September, decided in favor of the subscription to the increase of capital."

Document 90, Exhibit 93, letter from Farben to the Reich Ministry

of Finance with the request that the former decree of the Ministry regarding exemption from taxes of French dyestuffs factories be expanded for reasons of equal treatment to the acquisition of the new shares since Farben was exempted from taxes in France due to its participation in Francolor.

Please consider that the idea of absolute parity given in this document appears frequently in these documents. These are old documents; not present-day ones.

Document 91, Exhibit 94, is a note of the agency in Paris, the Sopi, 6 July 1942, according to which Frossard, for Francolor, on the basis of a discussion with the Government, makes the suggestion to the Francolor that specialized chemical workers of Francolor who have volunteered be assigned to a Farben plant. At the time, the German State came to an agreement with the French Government that workers were to come to Germany, and consequently the French State regulated the number of persons to be supplied by the French industry. This letter was connected with that, but note that Frossard said, that these were volunteers, and the figures of 100 is very low, by the way.

Document 92, Exhibit 95, a letter from Duchemin to Kremer. Duchemin expresses thanks to Farben for helping the technical advisor of Kuhlmann, Monsieur Berr. Monsieur Berr had been arrested as a Jew, in Paris, and was released as a result of Farben's efforts.

Document 93, Exhibit 96. This and the following documents deal with the question of whether the Vichy Government was a proper government under international law or, as the Prosecution says, a sham government or a puppet government. I therefore offer this document, which was accepted in the Flick trial, and the "Diplomatic Corps in Vichy and Consulates," an excerpt from the "Gotha Annual Chronicle," showing that forty-three states, including the United States of America, maintained diplomatic relations with the Vichy Government. It is hardly to be assumed that forty-three nations would have had diplomatic relations with a puppet government.

Document 94, Exhibit 97, is an excerpt from the transcript of the Flick case, the examination of the envoy Rudolf Schleier by Dr. Kranzbuehler. It deals with the legal position of the Vichy government. I ask the Tribunal to take notice of it without my having to point out the specific points; that would be argument.

Document 95 I offer as Exhibit 98. This is an opinion in the form of an affidavit of Mr. von Bosc, a member of the present Ministry of Justice of Wuerttemberg. It tells how the Vichy Government came into existence. All the details are described. The document shows that finally it was approved by majority vote of the French National Assembly on 10 July 1940.

Document 96, Exhibit 99, "Excerpt from the book by Jean Montigny "From the Armistice to the National Assembly, 15 June-15 July 1940." It is a French book revealing the legality of the Vichy Government. It has an appendix concerning the majority vote of the French National Assembly. It is interesting that all the persons are listed who voted against it. Eighty voted against it and 569 for it. Leon Blum, Champetier De Ribes, Fleurot and Fouchard, and numerous famous Frenchmen voted against it; on the other hand, many famous Frenchmen were on the side of those who voted for the decision.

Document 97, Exhibit 100, is an excerpt from the newspaper "Samedi Soir," of 14 February 1948, about the question of whether Petain was a traitor or a fighter of the resistance movement.

MR. SPRECHER: Mr. President, with respect to Exhibits 96 through 99 we will pass making an objection, believing that Your Honors will read the I.M.T. Concerning this whole problem of any possible significance which the position of the Vichy Government as a question of law has in this matter. With respect to Exhibit 100 and the next document, Schnitzler Document 98, we make an objection. The two documents are excerpts from newspapers, one in France and the other in Germany, in the year 1947 or 1948, and we feel that newspaper articles commenting upon matters like this, not under oath, are no assurance of the truth

of the matters asserted, and they are not within the usual exception with respect to contemporaneous newspapers of Germany, which we have all agreed have relevancy.

DR. SIMERS: Mr. President, I offer Document 98 as Exhibit 101, I would be glad to rather offer the best evidence of what was done in France after 1945 with respect to Franco-Lor. I asked for this material but Mr. Sprecher was not able to help me and my application had no result. Consequently, I would be grateful to the Tribunal if, instead of the better evidence which I am not in a position to offer, this newspaper article could be accepted. What I consider important is that the state interfered because Kuhlmann did not act under pressure and therefore holds the point of view that Franco-Lor stock, which formerly belonged to Farben, now belongs to the French state and not to Kuhlmann.

THE PRESIDENT: Dr. Simers, conceding that it is proper for you to show that the so-called Vichy government was at least a de facto government for the time, and that evidence, of that kind is competent because of the connection and association of the existing government in France to this transaction between Farben and Franco-Lor, nevertheless the Tribunal would not be interested in whether Petain was a traitor or a fighter for the resistance movement. That is wholly beside the issue. The objection to that Exhibit-100 must therefore be sustained on that ground. Now, as to your Exhibit 101, a newspaper report can hardly rise to the dignity of reflecting what some judicial proceedings are intended to. While it may be unfortunate you haven't better evidence of that, the objection must be sustained to your Exhibit 101 also.

MR. SPEECHER: Just one second. Dr. Simers has raised this point. I only wanted to say, Mr. President, that he has asked us to get the background material on the French decision which overthrew the Franco-Lor arrangement, and we were unable to do that, but that document which has been introduced in evidence here does show what the French government actually did.

THE PRESIDENT: Well, that will dispose of the matter. The Tribunal will rise for its morning recess.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

DR. SEIDL: Dr. Seidl for the defendant Dr. Duerrfeldt. Mr. President, this afternoon a witness, Ulitaka, is being examined before the commission. The defendant, Dr. Duerrfeldt, would like to participate in that commission's meeting. Therefore, I ask that he be excused from this afternoon's session.

THE PRESIDENT: The defendant Duerrfeldt is excused for the afternoon.

DR. SIEMERS: As Schnitzler Document 40, Exhibit 44, I offered affidavit of General Thomas. Mr. Sprecher pointed out that General Thomas is no longer alive. In view of the attitude in principle of the defense that the affidavits of deceased persons should not be submitted because these people can not be cross examined, and in consistence with the view of the defense, I should therefore like to withdraw my document 40, Exhibit 44.

THE PRESIDENT: Very well. The record will so show, Dr. Siemers.

MR. SPECHER: Just a short notice, Your Honors. Your Honors, I think, asked us to indicate to you when we had accomplished any further steps with respect to rebuttal document books. The index of the second book which bears entirely on the Auschwitz matter has been given in two copies to Dr. von Respass, and as soon as the micrographs are run we will have further copies there.

THE PRESIDENT: Very well. Thank you.

DR. SIEMERS: Your Honors, at the end of the first half of this morning's session, I had completed the Francor document books. Because of arrangements with other gentlemen, and also because of what I have already arranged with Judge Hebert and Judge Merrill, I would like to suggest that now Dr. Berndt should examine Dr. Ter Meer because it belongs to the subject matter of the Francor agreement, and then I should ask your permission to offer my remaining documents after Dr. Ter Meer's examination.

JUDGE HERBERT: Dr. Siemers, evidently there was some misunderstanding. We had not understood that you would not proceed with the presentation of all of the documents at this time. Under the general announcement and the sequence of proof that we had previously enumerated, we had understood that your entire case would be presented at this time, and I believe that the Tribunal would prefer to have the balance of your documents presented before we have the testimony of Dr. Ter Meer. Just a moment, let me confer with the Tribunal.

JUDGE SHLKE: How are you situated, Dr. Siemers? Are you ready to go ahead with your other books, or is there some reason why you would ask to be permitted to step aside?

DR. SIEMERS: I am sorry, Mr. President, if any misunderstanding has arisen. Since I did not expect to continue, I didn't have my document books before me. They are available as such, but it would cause a certain delay. May I remark that in the plan which Dr. Dix had submitted it had been provided that I, according to the request of Dr. Berndt, should first submit the Francor document books, and that then Dr. Ter Meer should be examined, and that I should subsequently present my remaining documents. We had made that suggestion for reasons of expediency because Dr. Ter Meer is going to be examined about the Francor question and my other documents have nothing to do with Francor. Therefore, and in order to avoid any delay I should be grateful to Your Honors if you would perhaps agree to this form of presentation.

JUDGE HERBERT: Inasmuch as you have indicated that there would be some delay, Dr. Siemers, I guess we will accede to that plan, if Dr. Berndt is ready. Dr. Berndt, are you ready to proceed?

DR. BERNDT: If this is Your Honor's request, I can begin immediately with Dr. Ter Meer's examination.

JUDGE HERBERT: Did you have something to say, Mr. Sprecher?

MR. SPEECHER: Well, as I have indicated before, it is a little difficult under the prevailing circumstances to keep up with the trial, but we will do our best. I would like to know if there is a clear understanding that when Dr. Ter Meer leaves the stand, when cross examination is finished that we will go on with the other books of the defendant von Schnitzler, so that we can make some disposition with our very, very limited staff.

JUDGE HERBERT: I think that would be the next matter in sequence. Dr. Siemers, is that clear then? Immediately after the completion of the testimony of Dr. Ter Meer the balance of your books will then be presented so that all the evidence on behalf of your client will be in? Is that correct? That is your understanding?

DR. SIEMERS: Absolutely correct. That is my understanding.

THE PRESIDENT: Then the defendant Dr. Ter Meer may return to the witness stand, and you may continue with your presentation on his behalf, Dr. Berndt.

DR. BERNDT: Mr. President, may I ask that my colleague, Dr. Bornemann, should first offer those documents that have to be offered?

MR. SPEECHER: Under these circumstances, we will have to ask for a slight delay because naturally we could not anticipate this situation and do not have our document books.

THE PRESIDENT: Some of us are in the same situation, but we will bear with each other until we get the books in, and then get going as promptly as possible under the circumstances. Dr. Berndt, do you have just two books, 12 and 13, plus a supplemental book marked 14? Is that correct?

DR. BERNDT: Yes, Your Honor.

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THE PRESIDENT: Mr. Secretary, will you send the page for Judge
Morris' books?

THE PRESIDENT: Dr. Ter Meer, you may be seated.

THE PRESIDENT: Counsel, will you start with your Book 12?

DR. BERNDE: Book No. 1, Mr. President. There are four remaining documents in that book.

THE PRESIDENT: Mr. Prosecutor, let us know when you are ready to proceed. We have our books now.

MR. SPEICHER: Mr. President, I think we can borrow the Secretary's books. He has made them available to us, and carry on until our own come.

THE PRESIDENT: That will be fine. Then counsel you may proceed with your presentation of the ter Meer matter.

DR. BOURNEMANN: Yes, Mr. President. I begin with Document BOOK I for ter Meer. There are four affidavits in that book which have not as yet been submitted. They deal with Dr. ter Meer's personal attitude. The contents of these documents speak for themselves, so that I do not have to comment on them.

The first one is Document 18, on page 58 of the book, an affidavit of the Director of the Kali Chemie, A.G., Joachim Fintselmann. I offer it as Exhibit 239.

On page 86, Document 31, an affidavit of the President of the Chamber of Industry and Commerce of Crefeld, Edmund Holz. This affidavit will become Exhibit 240.

The next ter Meer document, No. 35, is on page 95. That is an affidavit of Dr. Franco Crutianelli of Milan. That will be given Exhibit No. 241.

The last document from that book is on page 113, an affidavit of the lawyer, Dr. Heinz Pflueger, which will bear Exhibit No. 242. This is ter Meer Document 38.

In the supplement to Book I of ter Meer, there are three affidavits of the former business manager of the Industrial Department of the Chamber of Industry and Commerce of Frankfurt on the Main, by the name of Dr. Rudolf de la Roi. The first is Document 43, which will become Exhibit 242, - I beg your pardon, - 243.

THE PRESIDENT: Counsel is that the document bearing date of 28 January 1948?

DR. BORNEFANN: Yes, Mr. President, all of the three affidavits bear the same date. That is the affidavit, Document 43, where the affiant states that Dr. ter Meer did not hold any Party offices, and that he always rejected any work for the Party Agencies.

Exhibit 244 will be Document Ter Meer No. 44. That is the affidavit in which Dr. de la Roi deals with Dr. ter Meer's general attitude towards the Nazi Party, the NSDAP.

The next following document, ter Meer No. 45, has already been submitted on the 11th of February, 1948 as Exhibit No. 31, to your Honors. That is recorded on page 6,874 of the German text, and 6,750 of the English. The document was merely presented for identification at the time, because at the time the English translation was not yet available. May I, therefore, now ask that that affidavit be accepted into evidence?

I now ask you to take up Document Book II, for Dr. ter Meer and to accept the five documents that have not yet been offered into evidence. These are documents dealing with Count II of the Indictment. The first is on page 52, ter Meer Document 70, an affidavit of Dr. Matzdorf regarding Boruta. That will be given Exhibit No. 245.

On page 57 there is Document 71, which will be offered as Exhibit 246. That is an affidavit of Dr. Ter Meer about the so-called New Order. Dr. ter Meer gave this affidavit to the Prosecutor, Mr. Newman, on the 2nd of May, 1947. The document bears Prosecution No. NI 8035. The Prosecution has not submitted that as yet, and it is, therefore, now being offered by the Defense.

The next is Document 72, on page 64, an affidavit of the director of the Leverkusen Plant Bayer, Dr. Berthold Wank, regarding the reorganization of the productions in the Francolor Plants. I offer that Document as Exhibit 247.

Document 73, on page 67, also is an affidavit of Dr. Wank. It will be offered as Exhibit 248. Finally, the last document in this book, is

ter Meier Document 74, which is an affidavit of Dr. Barthold Schnell, regarding the Muhlhausen Chemische Werke, G.m.b.H. This document, on page 71 of the Book, will be given Exhibit No. 249.

We now come to ter Meier Document Books 12 and 13. These books belong together. They contain the minutes of all of the meetings of the Technical Committee, the so-called TFA, from the 20th of October, 1936 to the 7th of August, 1939. By the submission of the literal minutes of this Supreme Technical body of Farben, from the last three years before the beginning of the Second World War, the charge of the Prosecution is to be refuted according to which the management of Farben had prepared an aggressive war.

In Dr. ter Meier's direct examination, in the session of the 11th of February, 1948, in the afternoon, Dr. Berndt reserved the right of presenting these documents later. I refer to the transcript of the trial on page 6,814 of the English, and 6940 of the German. In Books 12 and 13 each of these minutes are given an independent document number in order to facilitate finding them, when we quote them during the trial. May I now offer these documents - first those in Book 12:

Document 78 will become Exhibit 250; Document 79 will become Exhibit 251.

Document 80 will become Exhibit 252; Document 81 will become Exhibit 253;

Document 82 will become Exhibit 254; Document 83 will become Exhibit 255;

Document 84 will become Exhibit 256.

In Book 13, there is:

Document 85 which will become Exhibit 257;

Document 86 which will become Exhibit 258;

Document 87 which will become Exhibit 259;

Document 88, which will become Exhibit 260;

Document 89 which will become Exhibit 261;

Document 90 which will become Exhibit 262;

ter Meer Document 74, which is an affidavit of Dr. Barthold Schnell, regarding the Mischhausen Chemische Werke, G.m.b.H. This document, on page 71 of the Book, will be given Exhibit No. 249.

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Document 85 which will become Exhibit 257;

Document 86 which will become Exhibit 258;

Document 87 which will become Exhibit 259;

Document 88, which will become Exhibit 260;

Document 89 which will become Exhibit 261;

Document 90 which will become Exhibit 262;

Document 91 which will become Exhibit 263;

Document 92 which will become Exhibit 264;

Document 93 which will become Exhibit 265;

Document 94 which will become Exhibit 266;

This includes both Document Books 12 and 13.

We now only have Document Book 14, Dr. Meier which I ask your Honors to take up now. This is a supplementary Document Book which deals with various counts of the Indictment, and brings in a few additional documents.

The first is an affidavit of Professor Robert Witzinger-Aust. It shows the general attitude of Dr. Meier to persecutions for racial and political reasons during the National Socialist Regime. This is Dr. Meier Document 46, which will become Exhibit 267.

On page 4 of book 14 and in the supplement to this book, there is a group of four affidavits which all refer to the testimony which Dr. Meier made during his direct examination in the afternoon of the 11th of February, 1948, regarding the direct deliveries of Farben for the purpose of military rearmament. During that examination Dr. Meier described the turnover for 1938 as less than 50 million Reichsmark.

I refer to page 6797 of the English transcript, and 6923 of the German transcript. Dr. Meier asked at the time to be permitted to hand in an affidavit about these figures at a later time. These figures are contained in the four documents which I am now going to offer. These are affidavits of the competent experts of Farben. The first is Document 95, from page 4 of Book XIV, which I ask to be marked as Exhibit 268.

The next is document 99, on page 25 of the supplemental document book. This will be given Exhibit No. 269. That is an affidavit of Julius Zimmerman.

The next is document 100, on page 26 of the supplement to Book 14, which will become Exhibit 270.

Finally, the last document in that group is Document 47, on page 28 of the Supplement to Document Book 14, an affidavit of Kral Hiss-rich, that will become Exhibit 271.

Would you now again take up the index of Document Book 14; itself, where you will find ter Meer Document 233, which will become Exhibit 273. This is a letter of Dr. Ambros to the head of the Central Raw Rubber Laboratory of Farben, Dr. Konrad, dated 13 June, 1939. This letter is offered in addition to and in supplement to Exhibit 120, which is ter Meer Document No. 180, in Book 4, on page 34; an affidavit of the leather business man, Richard Freudenberg --

THE PRESIDENT: Just a moment, counsel. I believe you have omitted your Exhibit No. 272. As I understand it your Document 233 should be your Exhibit 272; isn't that correct?

DR. BORNEMANN: Yes, Mr. President, I was mistaken and I beg your pardon.

THE PRESIDENT: Very well, now go on from there.

DR. BORNEMANN: It should be 272.

THE PRESIDENT: Go on from that point, and we will have everything straight then.

DR. BORNEMANN: The last document, to make it quite clear once more, was 233, which will be offered as Exhibit 272.

The next is ter Meer Document 234, a letter of the Reich and Prussian Minister of Economics to Farben, dated 13 April, 1938. This will become Exhibit 273. This letter is offered in view of the assertion of the Prosecution when presenting their Exhibit 565, the minutes of the session of 19 September, 1947, on page 1052 of the English transcript, and page 1017 of the German transcript. The letter shows that the preamble in the agreement concluded between the Reich and Farben about the Chemische Werke, Huls, was brought about by the demand of the Reich Minister of Economics, and that it received the National Socialistic tone and phrasing upon his request.

Document 158, which will become Exhibit 274, is to corroborate the statements of the defense about the problem Buna, America. The next is document 96, an affidavit of Dr. Oskar Loehr, one of the closest technical associates of Dr. ter Meer. Dr. Loehr describes

in his affidavit, the ideas and intentions of Dr. ter Meer in regard to the French dyestuffs plants, when Francolor was incorporated. Dr. Loehr further makes statements about the technical help given to Francolor by Farben.

I offer this document 96 as Exhibit 275.

The three last documents of this book belong together. They are offered to refute the exhibit of the Prosecution No. 1876, offered during Dr. ter Meer's cross-examination, WI 12610. These documents are to show that as Dr. ter Meer has already stated in his cross-examination, he was not informed by Dr. Struss about the conditions in Auschwitz.

Document 77 is an affidavit of Dr. Oskar Loehr which has already been offered during re-direct examination of Dr. ter Meer on the 18th of February, 1948, for identification only, when it was given identification Exhibit No. 236. You will find that on the English transcript, page 7312, and German transcript, page 7374, stating that the English translation of those affidavits as not yet available.

Since they are now available I ask that this affidavit be accepted into evidence as Exhibit 238.

Document 97, an affidavit of the former office manager of the Technical Committee, Peter Lameth, will become Exhibit No. 276.

Document No. 98, an affidavit of the clerk in the Technical Committee Office, Josef Becker, should become Exhibit No. 277.

During his examination Dr. Struss said in Exhibit 1876, that he possibly or probably, would have informed Dr. ter Meer, Dr. Ambros, Dr. Loehr and Mr. Lameth about those things which he, Struss, knew about the concentration camp Auschwitz.

Dr. ter Meer and Dr. Ambros testified to the Tribunal during their examination that that statement of Dr. Struss' is incorrect. In the three exhibits which I have just offered, No. 238, 276 and 277, the affiants state that before 1945, Dr. Struss did not inform

them about the conditions in the Auschwitz concentration camp. Dr. Struss, therefore, must have been mistaken.

This concludes Book 14, and its supplement, which thus have been offered to Your Honors as Evidence.

I have now only three remaining documents to offer to Your Honors, and I ask that I be permitted to ask whether I should do this now. These are ter Meer documents 159, 160 and 163. The approval for the submission of these documents at a later time has been given by Judge Merrill on the 26th of April, 1948. I can offer these documents today for identification if it is desired. I am not able to offer them properly because the English translations have not yet been made.

THE PRESIDENT: In the absence of a statement from the Prosecution that it would have no objection to the introduction of the documents, we would necessarily have to receive them for identification only. If the Prosecution knows what they are, and is willing to assume the responsibility of letting them be in evidence, it may so indicate.

DR. BORNEMANN: Mr. Sprecher is in agreement if I offer these documents into evidence as Exhibits and if Your Honors have no objection, I ask that I be permitted to do that.

THE PRESIDENT: We would prefer that, because it relieves us of the responsibility of keeping track of documents that are not in evidence. You may continue then with the presentation of the three documents to which you referred.

DR. BORNEMANN: The first is ter Meer Document 159 which will be given Exhibit No. 278. This is an affidavit of Frank A. Howard, dated 9 April 1948. Mr. Howard confirms in that affidavit that Dr. ter Meer also conducted himself in a completely correct manner in all negotiations concerning the Jasco agreement.

The next is ter Meer Document 160 which will become Exhibit 279. This is an affidavit of Dr. Oskar Lochr, regarding the Francolor

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questions. Dr. Loehr in this affidavit makes statistical statements about the production of all the French plants consolidated in the Francolor agreements, from 1941 to 1943, and also gives figures about the deliveries of Francolor to Germany and about the numbers of workers that were employed in the Francolor plants.

The last document will be ter Meer Document No. 163, which will become Exhibit No. 280. This is an affidavit of Rudolf Haetz, in New York, where Mr. Haetz makes statements about ter Meer's general attitude toward National Socialism.

This concludes the presentation of all of the documents for the defendant, Dr. ter Meer.

DR. BERNDT: Dr. Berndt for the Defendant Dr. ter Meer.

With your Honors' permission may I now examine Dr. ter Meer about the Francolor questions?

DIRECT-EXAMINATION (CONTINUED)

BY DR. BERNDT:

Q Dr. ter Meer, from your curriculum vitae that you have given us here we know that from 1910 to 1913 you lived in France. May I ask you whether, from that period and from a later time, you knew or you know the structure of the chemical industry of France?

A Yes.

Q In connection with the Francolor transaction the indictment repeatedly speaks about the Bayer Chemical Industry of France. Furthermore, the three firms Kuhlmann, St. Denis, and St. Clair Du Rhone are mentioned as the three chief firms of the French chemical industry. Is the latter one particularly correct?

A Both statements are incorrect. France and England are countries where an industrial production of chemicals started first. That was at the beginning of the 19th Century. In France, therefore, there was a very extensive chemical industry. It produced practically all products, heavy chemicals--nitrogen, alkaline fertilizers, phosphates, light metals, powders and explosives, rubber goods, rayon, pharmaceuticals, photographic articles, dyestuffs and their intermediates. Next to this large industry there were also small and medium industries numbering into many hundreds--soaps, paints, cosmetics, perfumes, etc. In regard to the three firms you mentioned it is true that Kuhlmann is one of the largest chemical concerns of France, but the production of Kuhlmann which was much larger in volume in the field of acids, heavy chemicals, nitrogen, and many others was not touched by Francolor. That production remained the independent property of the Kuhlmann firm. Kuhlmann only yielded their dyestuffs and dyestuffs intermediate production to Francolor. In order to show that there was a large number of other large chemical enterprises in

France, I would merely mention the world-renown firms of St. Gobain, Pechinoy, Electrochimie, Rhone-Poulenc, and Air Liquide, and large rayon plants of Gillet, and some others. About the other dyestuffs factories that you have mentioned next to Kuhlmann, namely, St. Denis and St. Clair Du Rhone, I must say that they are factories of a medium size. Their business and the dyestuffs business taken out of Kuhlmann together with a certain amount of organic production of Kuhlmann were all consolidated in the Francolor. I estimated the peace-time turnover of this Francolor production—"peace-time" I repeat—was approximately 3% of the turnover of the entire chemical industry of France.

Q Before the war broke out—that is, before 1939—were there already relations between Farben and French chemical concerns?

A Yes. It has been repeatedly pointed out that in 1927 or 1929 a dyestuffs cartel was founded between Farben, the French dyestuffs industry, and the Swiss dyestuffs factories. In 1932 the English firm I.C.I. entered into this cartel agreement as well. Since 1919 there was a license agreement between Farben and the firm owned by the French State, namely, the nitrogen factory Omnia-Toulouse, which was extended in the 1930's. In the same field, nitrogen, there were license agreements of Farben with Kuhlmann and Mines De Lens. Since the beginning of the 1930's there were license agreements in the field of nitrogen between Farben, Pechinoy and Electrochimie. With the St. Gobain Group, one of the most notable French enterprises, I conducted negotiations in 1938 about a large-scale cooperation in the chemical field—negotiations to which Dr. Wurster has already made reference during his examination. Next to that, of course, there were a number of license agreements with Kuhlmann, with Rhone-Poulenc, and other firms. And then there were a number of sales and price conventions.

Q Did the French patent law play any part in those negotiations?

A Yes, that is so. The French patent law provides that a patent must be used in order to be valid; if a holder of a patent did

not exercise the right under his patent, then the French Government could give a forced license to other French firms if an application was made to that effect. That, of course, made it necessary for the patent holder to utilize his discoveries in France itself or to conclude himself a license agreement with other French firms. On the basis and because of this situation, which was caused by the French patent legislation, in 1938 and 1939, shortly before the war, Farbou intended to construct their own plant in France in order to start certain productions that were protected by their own patents. This plan was prevented by the outbreak of the war. In 1941 it was finally abandoned in favor of the Francolor or the parent firms of Francolor, for we entered into an obligation either to permit Francolor or one of its parent firms to carry out the intended productions.

Q What was the status of the Chemical Industry of France in the pre-war years?

A The French Chemical Industry, as far as size and significance was concerned, lagged behind the corresponding industries of the United States, Germany, and England. This was partly due to the particularly unfavorably economic situation in France during the 1930's; but the French chemical industry was technically backwards in some fields; therefore, the French chemical firms endeavored to bring about closer collaboration with the German chemical industry.

Q What was the attitude of the French chemical industry to the collaboration that you have just mentioned, after the armistice had been concluded?

A I can't answer that question generally, but from talks with leading persons of the French chemical industry I know that intensified interest in such a collaboration existed and that that interest was supported by the French Government. I don't mean this in the political sense, but for pure commercial and technical considerations. Thus, for instance, in the winter of 1941 a French commission visited German chemical plants upon invitation of the German

Reich Group Chemical Industry. As far as I remember, the already-mentioned minister, Mr. Bichelonne, participated in this trip; he was then the French minister and State Secretary for Industrial Production. I made his acquaintance in Paris myself. He was an extremely capable and well-informed man. Then, there was Mr. Painvin, the Chief of a French organization which I might compare to the German Economic Group Chemical Industry; then, the repeatedly mentioned Mr. Frossard, and possibly other members as well, participated in this trip. I should further direct your attention to the negotiations that started in 1941-42 upon the instigation of the French Government about the construction of a large Buna plant in Southern France, which dragged on until 1943. They were then, however, abandoned in view of the economic situation, because, in view of that situation, the construction of such a large plant became impossible in Southern France.

Q We now want to turn to the French dyestuffs industry. Can you describe to me its development briefly?

A Yes. The French dyestuffs industry is very old. It goes back to the 1850's. In the subsequent decades, and particularly since the 1880's, it was outdone and superseded by German dyestuffs production. A high French protective tariff on dyestuffs caused the incorporation of many branch firms or foreign firms in France before the First World War; and in 1914 there were eight of them. Two of them were opened by Swiss firms, and six by German firms. The only significant French dyestuffs factory produced only 10% of the then French consumption.

Q What happened to the German branch firms in France during the First World War and after it?

A All of them were confiscated with all of their patents, trade-marks, and all of their technical know-how. From their potential the two new French dyestuffs factories, St. Clair Du Rhone and the most important Compagnie Nationale Des Matieres Colorantes, with the plants at Villers St. Paul, were created. But that wasn't all. Because of

the occupation of the Rhineland the plants Ludwigshafen, Leverkusen, Uerdingen, and Hoechst were in the occupied territory of France. Uniformed chemists of the International Allied Control Commission tried to find out everything about our know-how, our processes. In order to terminate these conditions, Farben concluded an agreement with the aforementioned Compagnie Nationale, ^{in 1920,} which was to last for twenty-five years. We granted extensive technical assistance in the field of dyestuffs and intermediates against a cash payment of 16.6 million Fr. francs which was about 5.5 million Gold Marks and against one-half of the net profits of the Compagnie Nationale to be surrendered until 1960. The one-time cash amount was paid. During 1921-1922, Dr. Bergdorf, one of our dyestuffs technicians, went to the dyestuffs plants Villers St. Paul, and he gave them all of our technical know-how in the dyestuffs field. During the first years the firm did not operate at a net profit. This contract, which we called the "Gallus Contract," was unilaterally revoked in 1923 by the French when they occupied the Ruhr Valley, after the Compagnie Nationale had reverted to the ownership of the Kuhlmann firm. We always considered that a violation of a lawful contract, but we could not get a hearing before the French courts at the time.

Q You mentioned Dr. Frossard's name. That gentleman also participated in the Francolor negotiations where he played an important part. As far as you are able, please describe his personality to us.

A I have known Mr. Joseph Frossard closely from the beginning of the 1930's; and until the outbreak of the war I have had very much to do with him, since he was the leading technical man of the Kuhlmann dyestuffs plants, and since he always participated in the cartel meetings. Dr. Frossard is an Alsatian by birth, and he was given his training in the well-known Muehlhausen Chemical School. Before the First World War he worked together with Thossmar, the

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later director of St. Denis, and his brother Louis Frossard, in the
large textile printing plants in Moscow.

Therefore, he knew the dyestuffs field from the scientific, technical, and application sides. He was internationally recognized, and he was given the Doctor's degree "Honoris Causa" by a Swiss university. Frossard was certainly the most important promoter of the French dyestuffs industry after the First World War. He and his associates constructed the two plants Villers St. Paul and Oissel. In that connection the experience transferred to them in the dyestuffs and intermediate field by Farben, in the 1920's, was of assistance to them in that undertaking. Frossard lived for his profession entirely; he lived very modestly and hardly knew anything apart from his work. I consider him one of the most experienced and capable of the French chemical industrialists.

Q. From documents, and particularly from those that have been submitted this morning, we know that on his own, shortly after the armistice was concluded, Frossard undertook to establish a connection with Farben. Are you of the opinion that any political motives were decisive for this action?

A. As far as I know, the person of Frossard, I believe that economic considerations were decisive. Frossard thought of his plants, of his chemists, and of his workers. The French dyestuffs industry, because of the conditions created by war, had lost important sales territories. Their plants were not working full time, and under the conditions prevailing in France there wasn't enough coal or raw materials, the traffic routes had been destroyed, the demarcation line between occupied and unoccupied France prevented traffic and communications with the Southern French sales market; and I think these were sufficient reasons for Frossard to worry about the future.

Q. We now want to turn to the Francolor Agreement itself. What were the ideas of Farben about the Francolor Contract?

A. The ideas of Farben were based on and directed towards the re-establishment of international collaboration in the dyestuffs field after the end of the war. We knew that as a result of the war serious difficulties would be created. For instance, we expected serious losses

in various export fields. Since the situation of the French dyestuffs industry had already become difficult during the last pre-war years, we wanted to clear up and stabilize our relations to the interest of both parties; collisions of interests, as they had crept up in the past and particularly during the 1930's, were to be avoided in the future. The pre-requisite for this was the consolidation of the French dyestuffs producers in one firm and the rationalisation of their production. That could only be done with the technical assistance of Farben. Farben, however, would be ready to grant such an extensive technical assistance only if they would be able to exert a certain influence upon the new firm by participating in their capital. That, in general outline, were the ideas.

Q. Did the Francolor Contract bring any notable advantages to the French?

A. That was the case very decidedly. First of all, the Francolor was guaranteed the volume of the dye-stuffs production of the pre-war years, when normal relations would once more be established. In other words, Farben undertook the risk of bearing a loss in sales, which the French might have to expect, and probably would have had to expect. Farben obligated itself to buy French products, insofar as France could not sell them to their colonies and protectorates and to the countries which were conceded to France as export countries. The 7,000 tons of dyestuffs provided for in the Francolor Agreement, without indigo and black sulphur, constituted pre-war share of the French industry, which we thus assured them. Apart from that, Farben obligated itself to a practically unrestricted technical assistance in the dyestuffs and intermediate fields, and in the field of the so-called auxiliary products for dyestuffs, in the broadest sense of the word. This assistance was given without any compensation in the case of non-patented processes. In the case of patented processes a license was provided for, only in the amount of one-half of the customary license fee. These concessions had the practical result that Farben, who sold important products to

France before the war, was ready to withdraw in favor of France from the French market of the products mentioned.

Q. Wasn't it also intended to bring about collaboration in new fields?

A. Yes. This point is of particular importance. It was my personal plan that the French dyestuffs plants be modernized and rationalized, as we did ourselves in the years after the merger of Farben in Germany. I have already described that in detail during my first examination. If a corresponding procedure was carried out in France, it would have been unavoidable that smaller plants be shut down in favor of larger plants, but new productions were to be started in the plants that were thus shut down. For this purpose we took into consideration to make available, to the greatest extent possible, experiences and processes for the production of new organic chemical products outside the dyestuffs field. It was left up to the decision of the Verwaltungsrat of the Francolor as to whether these new products would be produced in the Francolor plants themselves or in one of the parent firm plants. For such a resolution a two-thirds majority vote was necessary in the Verwaltungsrat, so that it was impossible to out-vote the French Verwaltungsrat members. Practically, this agreement and arrangement brought it about that the parent firms or Francolor, so to speak, had a priority on new processes of Farben in the field of organic chemistry.

Q. What I have been able to understand from your statements is that Farben granted very extensive concessions in these cases. Could you perhaps give me the value of these concessions? Perhaps you can express them in values of French francs.

A. Dr. Barrett, it isn't possible to figure out an exact amount for these concessions, but I think one can establish an order of magnitude.

MR. SPEAKER: Mr. President, I've listened to this line of questioning, and, on several occasions, with a great amount of trepidation as to what possible bearing it has. Now, here, when armies are still in the field and in the middle of a war, things are done which we think clearly

under law will not be done. By a special arrangement Farben gets 51% of the total of this firm, and there is a certain interest for Farben in seeing that that firm makes some money under these circumstances. What relevancy has that?--for No. 1.

Point No. 2: From the French point of view, when their allies were still fighting, when French armies themselves were still in the field, what possible value can some of these arrangements, made between certain Frenchmen and certain Germans, mean, so far as value is concerned? It has no relation to value in any ordinary sense of the word. What value it actually had we now know, but, I mean even at the time, what could it have mean?

We object on the grounds that we don't see the pertinency of this inquiry.

THE JUDGE: The objection is overruled.

A. I said before that it wasn't possible, of course, to make an exact calculation and that one could only speak about a comparative order of magnitude. Since, in former years, during the rationalization of the Farbon plants, I worked for Farbon, and undertook similar work in America, with the General Aniline, and Italy and in Spain, I may claim for myself that I have at least a possibility of evaluating and giving a judgment on this question. On the basis of my experience I would say that this rationalization in the Questuffs field, taking into account the status of the plants I saw in 1940, would certainly have brought about an increase in profits of approximately ten percent. That is a very conservative estimate for the increase in profits and the rationalization of German plants was much higher. But I don't want to compute a higher figure because the French perhaps had to undertake certain investments and that therefore one must not take the entire profits into account. A ten percent increase of profit in the case of 800,000,000 turnover would make 80,000,000 francs be capitalized. One should not convert it into capital in the customary manner but I think it would be better if one capitalized it over a period of five years. And then these profits would be five times as big which is 400,000,000 million francs, which would have come to the French after this rationalization in the period of a few years.

Q. The prosecution charges you and your co-defendants that you had undertaken plunder and spoliation in the case of Francolor. What do you say about that?

A. I think an act of spoliation and plunder would have looked different from the contract that was concluded with the French.

Q. At the beginning the French firms were not susceptible to the suggestions of Carbon at all. At least one can take that and understand that from the conferences in Wiesbaden and from the first negotiations in Paris.

A. Anyone who has experience in consolidated negotiations knows

that such complicated contracts do not come about overnight. A large number of complicated questions of a legal, commercial and technical nature have to be clarified in such contracts and particularly as we were concerned here with a completely new concept, it is clear that the partners to the contract must first establish common ground for concluding this contract, and Farban, in the beginning, didn't have a clear idea what the contract would look like in detail. That resulted only after the conferences which, as is known, took quite a long time. In that connection we accepted quite a few desires and requests of the French -- for instance, the contractual definitions about the Produits Divers and the new organic products.

Q. Do you have any definite indication for the fact that the French concluded this contract voluntarily and for considerations of a business nature?

A. Yes. I was always of that opinion and I am still today of that opinion. If that had not been the case then I would never have given my approval to the signing of this contract. Contracts of such a nature partners of two countries conclude for a collaboration must be concluded to the satisfaction of both parties. On both sides there must be the will to a willing and ready collaboration. The collaboration that started already before the contract was concluded was completely harmonious and was conducted in the most friendly of form. All other factors also indicate that the French were satisfied with this contract. Thus, for instance, it is a fact that there were no negotiations at all about the purchasing price, about the plans, in the amount of 800,000,000. The purchasing price was computed according to various methods and the figure arrived at in this manner was considered fair by both parties and accepted as such. When the Farban shares were evaluated, we met the French half way. That can be seen from the documents which Dr. Siemens presented this morning. The fact that the French were satisfied with the acquisition of Farban shares, and that they considered the participation in German I.G. Farban as in their own interest can be seen quite clearly from the

fact that when Farben floated new shares in 1942 they were quite ready to acquire the new shares and didn't sell their right of acquiring these shares which they could have done.

Q. I want to interrupt you in this case. The French would have received a large bundle of Farben shares in the course of this event?

A. After the capital was corrected and new shares were floated, the French had, in their hands, a bundle of shares of approximately 20,000,000 Reichsmarks. As far as I know there was only one more package of shares, almost as large as that, and that was owned by the firm Solvay, Brussels, the well-known soda factory.

Q. Then one of the consequences of the Francolor contract would be that Francolor became the second largest shareholder of Farben.

A. Yes, the largest or second largest.

Q. Thank you very much. You wanted to give us another proof.

A. Another proof is the fact that Dr. Dechenin, in January 1941, made the suggestion to be appointed in the Aufsichtsrat of Farben. And I consider that a recognition of an acceptance of the idea of Franco-German collaboration, and the integration of both groups which was later actually brought about by the Francolor agreement, namely France and Germany.

Q. Did Dr. Dechenin become a member of the Aufsichtsrat of Farben?

A. No. At that time we could not express an opinion about it because government regulations prohibited that any foreigners be taken into the Aufsichtsrat of German stock corporations during the war.

Q. Can you tell us of anything else that would corroborate your opinion that the French concluded the contract voluntarily.

A. Yes, I want to draw your attention to an event of 1941. During the negotiations in Paris on 21 to 24 July 1941, Dr. Bichelonne, the previously mentioned Minister and State Secretary for Industrial Production, asked me for a conference on very short notice. The Minister informed me that he had an objection of the French chemical industry against the Francolor contract because they feared that as a result of the collaboration

of Francolor and the French parent firms with Farbon, all inventions or discoveries of Farbon would be given to this one group, and the remaining French industry didn't want to and could not tolerate this. For reasons of time I do not want to go into the very lengthy conversation I had with Minister Richelonne at the time. I succeeded in calming him about our ideas and at that occasion I also promised him to start negotiations immediately with a group formed from the Mines, Poulenc and Electro-Chemie about the licensing of the buns process. I also promised him that I would talk to the chief of the important firm St. Gobain and would also promise that chief that the collaboration begun before the war was to be continued as soon as the conditions permitted it again. Mr. Richelonne then withdrew his objections but he demanded that Farbon and the three French parent firms would state in writing that it wasn't in their opinion to exclude other French chemical firms from their production. I then reported to the French gentlemen about this, and my report caused visible consternation among them. My colleagues and I saw very clearly that the French people apparently felt that this very agreeable and pleasant contract with Farbon might, in the last hour, be brought to naught. The suggestion that I made was dictated, signed, and thus we got around that cliff. That letter has been offered as Doc. 37 in Book 3 of my document books. I offered it as Exhibit 248.

DR. HENRY: Your Honor, I would now come to discussing the production of Francolor, but I believe if my colleague Dr. Hoffmann has one more statement to make we will have filled out the time.

THE PRESIDENT: We will hear Dr. Hoffmann.

DR. HOFFMANN: Mr. President, may I be permitted now, as an exception, to make the motion that the defendant Ambros be excused from attendance of the session this afternoon.

THE PRESIDENT: That motion is sustained. The Tribunal will rise for lunch.

THE MARSHAL: The Tribunal is now in session.

MR. SPRECHER: Mr. President, as to your suggestion, specifically that of Judge Hobart, we now are in a position to make our presentation of those documents in Prosecution Document Book 92, Rebuttal Book No. 1. I might say that the second rebuttal book will concern entirely Auschwitz, approximately 14 or 15 documents, and we have been told that these will be processed both in the German and English by next Tuesday and as soon as we have a clear indication as to that matter we will take it up with Judge Hobart and attempt to arrange that in.

THE PRESIDENT: Very well.

MR. SPRECHER: The third and last document book should not contain more than ten or a dozen documents and we will let you know about that on next Monday. Now, in selecting these documents we have attempted to restrict them to those which we think will be most helpful at this stage in assisting you in coming to a determination of the truth in regard to the matters covered by these documents. In most cases we have been able to avoid meeting explanations or new evidence put in by the defense through their witnesses and actually have been able to avoid calling a large number of defense affiliates for cross-examination, by using most of these documents — most of the available contemporaneous documents — that we think are crucial during cross-examination. That has also given the defense a longer opportunity to consider these documents for whatever purpose they may desire. Now, with your permission I would like to have the individual prosecution lawyers who have concentrated most on particular subjects, present the documents according to certain groups without any further introduction, and Mr. Von Street will begin with the documents which come at the end of the Book under Count III, a slave labor, at various Farben plants.

MR. VAN STREET: May it please your Honors, I am now referring to what is called Rebuttal Book 92 and I refer specifically to page 7 of the index in that

Your Honors, I would like to sincerely underline what Mr. Sprecher

has said generally in reference to what we consider the admissibility of these particular documents which are herewith presented under the rebuttal rules of evidence. I might say and I think I would be remiss if I did not say that I have been somewhat surprised by a couple of motions which I have seen from the hands of the defense wherein they point up, with great emphasis, the so-called "new fact requirement" which, of course, we all know is the Wigmore Rule. Now, Wigmore, in discussing that rule, your Honors, says among other things that "It is not easy to say whether the proponent's testimony in rebuttal might or might not as well have been put in originally". Now, in connection with the precise point I would like to say that in reference to the documents which I am about to submit, the question could not have arisen before, these documents could not have been put in our original case as the slave labor count case was concluded in November 1947 or not later than early December 1947, and these documents did not come into our possession until the latter part of February or the 1st of March.

Now, I just say that incidentally. I still propose to qualify these documents under the rebuttal rule but not, if Your Honors please, with the strict underlining so far as this new fact theory and personally I have always looked upon this so-called Wigmore rule as not being necessarily a strict rule. It is submitted that for example he says: "Rebuttal is proper when it meets the new facts put in by the adverse party." Well, now let's analyze just a minute, I won't take up much of your time, the word "fact". The word fact comes from the past participle of the Latin verb Facere, meaning a thing that is done. Now, a fact can be something aside from jumping out of a window or walking through a door, a fact can be the act in testimony of getting the record in a state of vagueness where it is absolutely essential that some clarification be given and it is certainly my position, and I think it is a proper position, that clarification or explanation certainly comes under this rule. And that is in line, of course, with what Wharton says.

Now, your Honors, I thank you for indulging me in those few preliminary remarks.

I refer to prosecution document KI-15159 and ask that it be marked as Prosecution's Exhibit No. 2154. Now, this is a letter from the administration of the Labor Camp Marie to Farben's Bitterfeld plant. "Camp inmates employed by Farben's Bitterfeld plant have complained repeatedly about the vermin found in their billets."

I won't make any further remarks but I would like to state if I may, before you speak, the basis of qualifying this is that Dr. Buergin, in his testimony, said that "living space for foreigners in the Farben camps was particularly stressed". He refers to the living space as exemplary and he refers to the welfare institutions generally of Farben as being exemplary as to housing, etc. Then also I refer briefly to the affiant Marie Callobant's affidavit, which is Buergin Exhibit 71, wherein she says: "All huts were new, with every convenience such as central heating, bath tubs, wash rooms, water closets, everything was very modern and practical, every room had running hot and cold water. Bedrooms were simple and nice. Every week clean bed linen."

DR. SCHUBERT (Defense Counsel for defendant Burger): Your Honors, the prosecution apparently considered it necessary in offering these documents at this time to explain each document very thoroughly and particularly to explain that they are purely rebuttal evidence. According to my understanding of the matter and specifically according to the ruling in the Flick Case, rebuttal documents are admissible only if they refer to some new evidence presented by the defense. The document that we have here contains complaints about the existence of vermin in the barracks at Bitterfeld; exactly the same thing has already been introduced by the prosecution in Exhibit 1398 which is the affidavit of a French worker named Rene Ballandier and a footnote here in the index mentions the examination of Rene Ballandier. It is said once again in this document that there was vermin in the Bitterfeld barracks, exactly the same thing that Ballandier said and in which he was cross examined. Therefore, I cannot see that anything new presented by the defense is answered here. This document is merely attacking the defense statements which apply to previous prosecution documents. I believe, therefore, and my objection will be repeated in the case of the other documents, too, that this is cumulative and should not be accepted in rebuttal.

THE PRESIDENT: Now, gentlemen, up until this point the Tribunal has tried to be reasonably liberal with counsel for prosecution and defense alike in according them an opportunity to advise the Tribunal as to the general contents and import of the documents which they have offered in evidence. We have now reached a situation where we're nearing the close of this case. The Tribunal cannot, in the interests of conserving its time and yours, open the door to a discussion of the questions that are apparently to arise with reference to whether or not these several documents which the prosecution is undertaking to offer are or are not proper rebuttal. The Tribunal has therefore concluded to adopt the following policy. With respect to the time reserved by the defendants Krauch, von Schnitzler and Dr. ter Meer, they may continue to present their documents in the same manner that documents have been presented in the past until they present

their case in chief, thereby according them the same privileges that were accorded to the prosecution in the presentation of its documents.

Now, as to other documents offered by the parties from this time on, with these three exceptions, there will be a different rule and the rule starts with the prosecution's so-called rebuttal documents. These documents will be presented and given numbers and counsel for the defense may, by memorandum handed to the Court, point out to us what they have to say with reference to whether or not it is or is not rebuttal. That same ruling will apply to all supplemental documents offered by defense henceforth, except as to the accepted matters pertaining to the defendants Krauch, von Schnitzler and Ter Meer in the completion of their cases in chief. In other words, that is to say that with the exception of the principal cases yet to be presented on behalf of Krauch, von Schnitzler and Ter Meer, there will be no further explanation of documents entertained by the Tribunal, but you will merely give us your documents entertained by the Tribunal, but you will merely give us your document number and your proposed exhibit number and counsel for the opposing side may give us a memorandum if they think the document is not admissible. That will, for the time being, dispose of this and the prosecution may proceed to mark its documents in rebuttal, give them numbers and counsel for the defense may file a memorandum pointing out wherein they think the document is not competent.

Judge Hubert reminded me of that which I should have known that the defendant Schmits is in the same situation with Krauch, von Schnitzler and Ter Meer. That was an oversight. I am sorry I omitted his name.

Now, is that clear so we have no further misunderstanding about it? Documents with the exceptions as they apply to the main cases of the defendants Krauch, von Schnitzler, Schmits and Ter Meer, may be marked for identification only from now on, or rather, given numbers from now on and subject to motions to strike.

MR. SPEECHER: Mr. President, since our indexes were rather short, particularly in the first book, may we be allowed to submit a short memorandum stating more specifically the nature of rebuttal? We had intended

to do that really and we did not intend to have any further general explanations.

THE PRESIDENT: You may do that either in support of your documents or they will be in evidence, unless objection, and you can have the opportunity after the objection is made to say what you have to say about them.

MR. SPRECHER: Thank you, Mr. President.

DR. SILCHER: Mr. President, I don't know whether I quite understood the ruling that has just been announced. It seemed to me that in the three cases mentioned, Arauch, Schmitz and Schnitzler, there should be a more generous ruling than in respect to other documents. If I understood that correctly then I ask that this more generous rule be applied also to the basic information. I said when the first book was presented that the second book would be presented later, and I have not yet been told that there would be any change in how it was handled. Whether I offer it now or later.

THE PRESIDENT: Did you have references to documents or do you have references to the slides which you proposed to exhibit, Dr. Silcher.

DR. SILCHER: Part of the basic information documents will be offered as defense exhibits.

THE PRESIDENT: We can see some reason, so far as the visual slides that you wish to display, that you should be permitted to say something in explanation of what they are, but as to documents, the line must be drawn somewhere and may I correct what is an apparent misunderstanding on your part? We are making exceptions in the case of Schmitz and the other three that I named in order to put them on a parity with the other defendants; to permit them to introduce their documents as other documents have been introduced. Beyond that we are going to adopt a different policy because the necessity of it is indicated here. Where you have a group of documents that are designated rebuttal, they are not comparable. They change from one subject to another, and if we are to listen to legal arguments as to the competency of each of those documents

that are presented we will use much of our valuable time and yours and consequently we are going to change the policy from now on, except, Dr. Silcher, as to the defendants Rauch, Schmitz, von Schnitzler and the Meer, insofar as they may use the same practice that has been followed in the presentation of their documents in chief. In other words, they may explain their documents as other defense documents were explained.

Now, as I see it, that only leaves open one matter of doubt and that is as to your basic information documents and your slides that you are speaking of. As to the slides, we can see reason why you should be permitted to give an explanation of them when they are shown.

DR. SILCHER: Mr. President, I believe an hour and a half or two hours were provided in the schedule for the presentation of the basic information and I believe that this is an exactly parallel case to the other defense cases in chief. That is something that is offered for all the defense counsel and is a parallel to them.

THE PRESIDENT: Well, Dr. Silcher, may I remind you that insofar as the basic information of the prosecution was concerned it was not even introduced in evidence. It was just handed to us. I haven't seen your basic information, but aside from the presentation of your slides, if we are going to treat you just the same as we did the prosecution, we shouldn't waste much time on having an explanation of basic information. Its very designation would indicate that it wouldn't call for very much in the way of explanation at all but is more or less self-explanatory. We'll grant you permission to explain your slides and you may have whatever time you need within your limits for that purpose, but as to everything else, documents may be marked and may be only attacked by memorandum handed to the Tribunal because I can well see that we could spend this afternoon on a very few documents here, arguing as to whether it is or is not rebuttal and the same thing may arise when you gentlemen of the defense go to present your submitted documents so far as the prosecution is concerned. So we'll permit you, Dr. Silcher, to use whatever time within the allotted time you need to present your slides and the oral explanation of them, but as to

this book if we accorded you the same treatment as we accorded the prosecution it won't require much time at all. As I recall, that wasn't even in as evidence. It was not offered in evidence.

MR. SPEECHER: Yes, I was about to point out, Mr. President, was only considered it as somewhat of an introduction and it hasn't even been supported entirely by proof and is completely dead. It was merely a little treatise to introduce the case.

THE PRESIDENT: If Dr. Silchar feels that he does want to offer the documents in his basic information books in evidence we'll accord him the permission of doing that but in the same manner in which the rebuttal and the supplemental documents are offered.

Gentlemen, that is just not a disposition on the part of the Tribunal to be harsh or to apply my severe rules, but it is just necessary in the interests and the conservation of time and to keep you all on a parity here so far as the presentation of your case is concerned.

DR. SILCHER: I believe, Mr. President, according to what you have just said the difficulty will be solved. The slides and documents are insolvably connected. As a rule, the slides are just an explanation of what the document and, at any rate, I will not need more than the two hours which have been assigned to me.

THE PRESIDENT: How many documents in your document book, roughly, Dr. Silcher @ You basic information book?

DR. SILCHER: I don't have it here at the moment. Without the slides I believe about ten or twelve.

THE PRESIDENT: If you wish then to present those documents immediately before or some time before you use your slides so that you can relate the slides to the documents in your oral presentation of the slides that's entirely proper. We'll give you that privilege and receive the documents in evidence in advance so you may use the slides as you see fit and if you wish to say something about the slides in connection with the documents that will be within the rule so that ought to take care of your situation.

DR. SILCHER: Yes.

THE PRESIDENT: Now, is there any misunderstanding in the minds of anyone as to what we mean? We'll save time by using a bit more here if there is any misunderstanding as to what the policy of the Tribunal is to be.

DR. FLAEBCHNER (Defense Counsel for "Hetefisch"): Mr. President, you will recall that, at the end of the presentation of my client's case I asked the Tribunal to give me an opportunity to add some further documents. The Tribunal promised this and I was told that at some later time I would be allowed to present the rest of my documents. These documents were handed in for translation on the 5th of April. I do not know whether they are translated yet. I have no knowledge of that yet. These are part of my case in chief and I do not believe that there is any intrinsic reason for dealing differently with these documents than with the ones

which I offered to the Tribunal during the presentation of my case in chief. I would be grateful - and the same applies to some of my colleagues who were granted the same privilege - if the Tribunal could decide that the defense documents which are to be offered as a supplement to the case in chief may be accepted under the previous rules, but that the documents which we offer either to refute documents offered in cross examination or in rebuttal may be subject to the new rules.

THE PRESIDENT: Now, gentlemen, it seems to us we have given you your allotted time, we were ready to hear your cases as you presented them. Some of you have made exceptions or reservations. You were not ready to go forward. Some have said that you might have supplemental material and we know now that some of you have presented supplemental material. Some place we must draw the line and if we hear those that present their cases in chief with an explanation of the documents, then it seems to us that as to all of these omitted and supplemental matters you are all more or less in the same situation and I may say this, the Tribunal feels that your time would be better spent by bringing the case to an orderly conclusion as speedily as is practicable and give you more time for briefing and preparation of your arguments. We really think that this is helpful to the presentation of the case to us and you will need all the time that is available for it. After all, you are going to be briefing this case very shortly after the presentation of this last group of documents and you will be preparing your arguments quite fresh from it but whatever they have that is highly important you will have a full opportunity of telling us what they are and what their significance is so far as the case is concerned, but if we spend several days here in the court room in passing upon the competency of individual documents and listening to more or less extended explanations of the document it just cuts short the time that you really need for the thorough briefing and preparation for the briefing and argument of your case. I think you perhaps over emphasize the importance, if I may say so, of your oral

presentation of documents. I think it would be helpful to the Tribunal much more to have it on paper before us in our study of the case.

DR. ILAECHNER: Mr. President, we were primarily interested in knowing whether the same generous rules are to apply to the supplementary documents as to the previous documents and not that these documents be subject to the restrictions which are now to be introduced for rebuttal and for the answer of the defense to the prosecution's rebuttal evidence. That was the main thing for us. The prosecution material was permitted to be introduced without any examination of relevance and these same generous rules were applied to the defense and we are asking that we be given the same conditions for our supplementary material for our cases in chief.

DR. BERNDT: Mr. President, weeks ago I submitted three books to the Tribunal regarding economic order in the Third Reich. I may assume that I will be permitted to introduce these documents briefly and that there will be no restrictions.

THE PRESIDENT: Now, gentlemen, you can well see just what situation you are in. Everyone of you think that your case ought to be an exception to the rule. I take it that if the rule applies to your opponent you are quite well satisfied with it and I suspect the prosecution would probably follow naturally the same way. They would be very happy to let us give them as much time as they need to explain their documents and apply a more harsh rule to you, gentlemen, but some place, gentlemen, you have to draw that line. We announced when we started in on the defense that we would accord so much time to each defendant and we were here to hear you and you had that time available. Some of you have asked to postpone that and have asked that you be permitted to offer supplemental documents, supplemental books in some cases. Now, that is very well, but at the same time there comes a place where you must draw the line and it seems to us that the place to draw the line is when you presented your material in chief that you had ready to present when the Tribunal was ready to hear you. As to these others, I can assure you that the information that

you produce, the facts that you develop, will receive the same consideration as that which has been presented before and I may say again that I think you over-emphasize the importance of your oral presentation of the documents. An analysis of the documents in oral argument and in briefs is going to be much more important to this Tribunal than to set here day in and day out listening to the presentation of the documents with explanations.

DR. SCHUBERT: Mr. President, I believe in what my two colleagues have been saying to the Tribunal there is a slight misunderstanding. I hope to be able to clear it up. I am in the same situation as Dr. Flaechner. I, too, on concluding my case in chief, obtained permission from the Tribunal to offer some supplementary documents later. We do not want to offer these documents in the previous form with argumentation. We are quite willing to just number them and hand them in but since this is, after all, an approved completion of our case in chief that these documents be accepted under the same conditions as hitherto granted to both the prosecution and the defense; that they not be under the more severe terms which apply to rebuttal documents and therefore we ask that these supplementary defense documents for the case in chief, even if they are not explained, may be accepted by the Tribunal under the same conditions as hitherto.

THE PRESIDENT: That's exactly what we were trying to say that we intended to do is to permit you to introduce the documents just the same as you have been doing, but without explanation, except as it applied to the subject of the cases of the four defendants who were named. You can offer them, they are in evidence just the same. The only thing we're going to ask you is to omit your oral explanation of the documents.

Dr. Hoffmann, we'll hear you now.

DR. HOFFMANN: Mr. President, according to the schedule set up by the Tribunal two-thirds of a day are assigned to Ambros, and I ask that the same ruling made for ter Meer and Schnitzler be extended, if possible,

to Antmos.

THE PRESIDENT: We thought that your time was principally reserved for a witness, Dr. Hoffmann, and that you might have some additional documents. You have a few, I know, on our desk. Do you intend to utilize part of your time for a witness or do you have more documents to present than you have already submitted?

DR. HOFFMANN: No, I reserved more time for my witness and only a few documents which are actually available to the Tribunal already.

THE PRESIDENT: Very well. We have those documents. We'll know what is in those documents at the time you present them any way, so that you would not be injured, would you, but just giving them numbers and introducing them in evidence?

DR. HOFFMANN: Very well. I am only interested in the witness.

THE PRESIDENT: Very well.

MR. SPRECHER: I am afraid I made an omission and that may be why Dr. Nelte is here. I, in mentioning the total of three books, I did omit those ten or twelve documents which Dr. Nelte has been promised.

THE PRESIDENT: Do you intend to keep your promise on that?

MR. SPRECHER: If we can, Mr. President.

DR. NELTE: Mr. President, at this time I am not speaking for myself but I want to finish a question affecting the defense counsel as a whole. We have heard your ruling and will conduct ourselves accordingly but there is one question which I should like to ask and that is how the Tribunal imagines our response to the rebuttal documents, how the Tribunal expects that that can be done before the 12th of May? The question of whether the proposed policy will give the defense time depends on when you, Your Honors, decide on the prosecution rebuttal documents and the memorandums which we are to hand in.

The Prosecution has announced that they will take until next Tuesday — that is the fourth day—and after that to the fifth day to hand in the rebuttal documents. Even if we try very hard, it will be possible for us to prepare a proper response and have it translated only by the 7th or 8th of May.

Now, among the affiants there are foreigners — Poles, Frenchmen, Englishmen. In the interests of the Defense we must have an opportunity to cross examine these affiants. They are not here in Nurnberg as I discovered in a few cases by questioning the Prosecution.

Can you tell me, your Honors, how it is possible to do justice to the interests of the defendants before the 12th of May in answering the rebuttal documents and affidavits?

THE PRESIDENT: Certainly, Dr. Welte, the Tribunal is not disposed at this time to fix any date before which you shall do that, in view of the fact that one of the document books is not yet available to you. We will survey that situation and undertake to work out something that will give you a reasonable opportunity to make your showing with reference to these documents before we close the case. But at least as to these documents which the Prosecution is about to offer now your time for studying these documents is at least starting on them. It has not started on the others until they at least are available to you. We understand that situation. We will confer with you and try to be as reasonable as the limitations of time will permit, with respect to giving you an opportunity to point out wherein you do not think these documents are proper rebuttal. And we also know as well as you the pressure under which you are working so far as commissioners' hearings are concerned. But this is hardly the time that we have to face the responsibility of solving that problem. We will keep it in mind and confer with you before we make any arbitrary commitment as to when you must act.

MR. SPEECHER: Mr. President, just one thing. Your Honors did not close off the case of any particular defendant, so far as I recall, at

the time when it might be said it would have been conventional to do so normally, and we had thought at the time that that was principally to allow the Defense to put in certain contemporaneous documents, which they were still in search of, because those might fill in certain gaps. As a matter of fact, the way it has worked out is that most of these documents have just been contributions to the hundreds of Defense affidavits which are already before us. Now, that puts the Prosecution in a very strange situation. In these last days we have had more and more affidavits submitted. Obviously we don't have time to call even a fair sampling of these affidavits to Nurnberg for cross-examination, and therefore we are always obliged to fall back upon the first line of defense of the Prosecution—which is contemporaneous documents.

Now, we have tried to meet a lot of new material or new explanations offered by the Defense. But mostly we have done that by very few documents throughout the Defense case, when you compared figures.

Now, with respect to the affidavits which Dr. Nolte mentions, if he will tell us in the next day or two, if he can, which affidavits he wants, we will make our best effort to get them here at the earliest possible time and bring them before the Commissioner, or a second commissioner.

THE PRESIDENT: Gentlemen, this matter has been pretty fairly discussed. We have heard very much from you from both sides as to the difficulties under which you are laboring. If we extend this argument, I would be tempted to tell you something about how the Tribunal feels about its own responsibility, and some of the problems we have. But we will forego that for the time being.

If there is nothing further now, the counsel for the Prosecution may proceed to put in evidence, its rebuttal documents in its Books 92.

MR. DUBOIS: I told Mr. Sprecher, I would like to try the new system.

THE PRESIDENT: Very well.

MR. DUBOIS: NI-15159 on page 7 has already been marked as Prosecution

Exhibit 2154.

Now, beginning on page 1 I will read the NI number and then follow it with the exhibit number:

NI-14097, Prosecution Exhibit 2155.

NI-14099, Prosecution Exhibit 2156.

NI-15164, Prosecution Exhibit 2157.

NI-13574, Prosecution Exhibit 2158.

NI-15163, Prosecution Exhibit 2159.

NI-15162, Prosecution Exhibit 2160.

NI-13519, Prosecution Exhibit 2161.

NI-14104, Prosecution Exhibit 2162.

NI-14102, Prosecution Exhibit 2163.

NI-14074, Prosecution Exhibit 2164.

NI-13529, Prosecution Exhibit 2165.

NI-14075, Prosecution Exhibit 2166.

The documents under the heading "Austria" are omitted.

THE PRESIDENT: Just a moment. All of those under the heading "Austria" —

MR. DUBOIS: are to be omitted; will not be offered.

NI-7662, Prosecution Exhibit 2167.

NI-7648, Prosecution Exhibit 2168.

NI-10543, Prosecution Exhibit 2169.

NI-5146-A, Prosecution Exhibit 2170.

NI-13373, Prosecution Exhibit 2171.

NI-15136, Prosecution Exhibit 2172.

NI-15143, Prosecution Exhibit 2173.

The next two documents are omitted, NI-15158 already being in evidence.

NI-15155, Prosecution Exhibit 2174.

NI-15157, Prosecution Exhibit 2175.

NI-15160, Prosecution Exhibit 2176.

NI-15137, Prosecution Exhibit 2177.

NI-15156, Prosecution Exhibit 2178.

The next document is omitted.

NI-14032, Prosecution Exhibit 2179.

NI-14719, mark that Prosecution Exhibit 2180 for identification only.

NI-14716, Prosecution Exhibit 2181 identification only.

NI-14717, Prosecution Exhibit 2182 for identification only.

NI-14650, Prosecution Exhibit 2183.

NI-9986, Prosecution Exhibit 2184.

NI-9980, Prosecution Exhibit 2185.

NI-8131, Prosecution Exhibit 2186.

NI-8120, Prosecution Exhibit 2187.

NI-8119, Prosecution Exhibit 2188.

NI-8118, Prosecution Exhibit 2189.

NID-9101, Prosecution Exhibit 2190.

NI-15203, Prosecution Exhibit 2191 for identification only.

THE PRESIDENT: Very well.

MR. SPRECHER: Mr. President; I just wanted to make one explanation.

On page 6 of the index, with respect to NI-8146-A, which Mr. Dubois gave the number 2170, that is Prosecution Exhibit 2170, there should be a very short explanation. The principal document is already in evidence as Prosecution Exhibit 1197. The German copies of Prosecution Exhibit 1197 had attached to it to the covering letter. By a mechanical inadvertency in the processing branch, the covering letter was omitted from the English copy and we didn't discover that until we checked it up.

So, therefore, I just repeat that Prosecution Exhibit 2170 is the covering letter to Exhibit 1197.

THE PRESIDENT: Your remarks demonstrate the necessity of exceptions to rules.

Dr. Berndt, I believe you wish to call a witness at this time?

DR. BERNDT: By accident, Mr. President, I learned this noon that one of the gentlemen present in decisive negotiations of Farben with

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Francolor men was present. And since this examination will take only
ten or fifteen minutes at the most, I would be very grateful if I could
call this witness today.

THE PRESIDENT: Very well.

MR. SPRECHER: Mr. President, I mean I really must beg you to give us a little consideration. This witness happens to be Defense counsel Dr. von Rospatt, who has been sitting in this hearing room for months. And if Dr. Berndt or other Defense counsel haven't been informed by these defendants during this time that Dr. von Rospatt could be called, and so that Prosecution could be given the usual notice, there is certainly a lack of due diligence by somebody, and we think perhaps in this one individual case it is us.

THE PRESIDENT: Counsel, let me say this. I take it that the purpose of that rule with reference to notice is to permit the opposing counsel to make some investigation about who the witness is, and determine what his policy may be with respect to cross-examination. I think you and Dr. Rospatt are well enough acquainted that you will be at no disadvantage in this instance. This is just another exception to another rule.

Dr. Rospatt, you may take the witness stand.

(DR. HENRICH VON ROSPATT, a witness, took the stand and testified as follows):

THE PRESIDENT: Will you say "I" and state your name Dr. von Rospatt, for the record?

WITNESS: I, Henrich von Rospatt.

THE PRESIDENT: And now repeat the oath.swear by God, the Almighty and Omniscient, that I will speak the pure truth and will add and withhold nothing. (Witness repeated the oath.)

You may be seated.

DIRECT EXAMINATION

HENRICH VON ROSPATT

BY DR. BERNDT (Counsel for defendant Ter Haar):

Q. Witness, please give us your full name for the record?

A. Henrich von Rospatt.

Q. When were you born?

A. On the 18th of March, 1903.

Q. And your residence?

A. Friedrichruhe, Kreis Oehringen.

Q. Please, very briefly, tell us something about your career?

A. After finishing my legal training, I was given an opportunity by Farben to work in Hamburg and London in 1932 and 1933, where I got some commercial training. Subsequently, until 1944 I was in the legal department Dyestuffs and the closest associate of Dr. Kuemper. In 1944 I left I.G. Farbenindustrie. Now, I am a lawyer in Frankfurt on the Main.

Q. During your work with Farben did you have anything to do with the contracts or the preliminary work for the contracts with Francolor?

A. I worked on the Francolor contract from the very beginning until 1944.

Q. Were you ever present at negotiations at which Frenchmen were present?

A. Yes, I attended the conference in July, 1941, representing Dr. Kuemper as a Farben lawyer. This was in Paris and it lasted for several days.

Q. Which of the defendants was present?

A. Dr. ter Meer and Dr. Kugler; Dr. von Schnitgler was ill and therefore was not present.

Q. Would you please tell us what the atmosphere was like during these negotiations, and please distinguish between personal atmosphere and technical.

A. In the course of my twelve years of work for Farben I attended many international negotiations. I can only say that the atmosphere at these negotiations in Paris was probably the most pleasant. The attitude of the French partners was not only correct but cordial and almost friendly. That did not, however, prevent them, as partners, from fighting very hard for the various conditions of the contract, so that one had the impression that they were absolutely masters of their own decisions.

Q. During this struggle, did the French at one point or another succeed in making their opinion prevail?

A. Yes, in general I had the impression that we gave in more than the French did.

Q. What was the personal attitude of the French?

A. Also extremely frank. For example, on one day they invited us to a big banquet which was in a very friendly tone, and at the end was very gay, and at the end, I believe, each of us was given a bottle of Armagnac to take home.

Q. If you have not already indicated it, please tell us, can you make a comparison between these negotiations with the French and other negotiations with other Frenchmen or with other foreigners?

A. I think of two comparisons. One was the negotiations in 1936 with ICI in London for the foundation of the Trafford Park Company, which has also been mentioned here. During these negotiations I once attended some discussions in London with ICI men, extending over several days. Although we were certainly at peace at the time and it was a perfectly friendly formation of a company that was being discussed, the English were noticeably reserved and there was no personal social contact, such as had existed in Paris with the Francolor men.

The second example was just before this discussion in July, 1941, in Holland. There, some business acquaintances had great difficulties because the German occupation authorities were making trouble for them. I went there with one of our Vorstand members, Kommerzienrat Waibel, who had died in the meantime, to Holland, and we offered that, pro forma, he would become a member of the Aufsichtsrat of this company in order to be able to help our business acquaintances. But the Dutchmen were so afraid of getting the reputation of being collaborators that they not only refused our friendly suggestion but personally and socially were very reserved and cool. I was therefore doubly surprised at the atmosphere which I found in Paris at the Francolor negotiations.

Q. A final question. When were these negotiations in Paris at which you were present?

A. As I remember, that was in July, 1941.

Q. Did not the participants go to a suburb of Paris one evening?

A. Yes, we were in the suburbs in the direction of Versailles, a very pretty suburb, a very nice restaurant — I believe it was called "Bogardie", and it was very gay.

Q. Was it perhaps so gay that you sang songs—or one song in particular?

A. Yes; Dr. Ter Meer, who, like myself is a cheerful Thinelander, at a later hour in the evening began to sing student songs, and especially the popular song, "In the Woods There Are the Robbers."

Q. Do you believe that the text of this song can be brought in any connection with the events that are being judged here?

A. No, certainly not.

Q. But you know that this song, the text of this song, has been introduced in evidence here by virtue of a remark which Dr. Ter Meer made on a file folder?

A. In the meeting the next morning Dr. Ter Meer wrote this note on the folder. I am sure he was thinking more of the evening before than of the negotiations.

Q. Thank you; I have no further questions.

THE PRESIDENT: Anything from other counsel for the Defense?...

Then the Prosecution may cross examine.

CROSS EXAMINATION

DR. HENRICH VON ROSEBATT, Resumed

BY MR. SPEICHER:

Q. Dr. von Rosebatt, as a test of your memory, do you remember the first time when you came into my office in this building as a representative of Defense Counsel?

A. Yes.

Q. When was that?

A. I believe that was in May or June of last year.

Q. And what is your position with the Defense counsel now?

A. I am Deputy Defense Counsel for the defendant Professor Krauch.

Q. And you have held that position since shortly after the indictment was issued in this case?

A. No, at first I was Deputy Defense Counsel for Dr. Kugler.

Q. Now, do you recall the names of the leading Frenchmen who were present at the July 1941 conference, that is who were present when you were present?

A. Yes.

Q. Who were they?

A. One Mr. Frossard, and I believe his brother too, and Mr. Duchemin. I believe that at this banquet Mr. Duchemin was sitting next to me.

Q. Did Frossard or Duchemin at that time mention to you, Dr. von Sospatt, that they had been having difficulties in getting the French dyestuffs business going because the German Military Government was imposing certain restrictions on the French businesses?

A. No.

Q. Did any of the gentlemen—either the two Frossards or Duchemin—mention to you at that time that in the first meeting, in November 1940, at Wiesbaden, that Duchemin had expressed the demand of Dr. von Schnitzler, or the proposal of Dr. von Schnitzler, as being a dictate rather than a proposal?

A. No.

MR. SPEICHER: No further questions.

THE PRESIDENT: Any other questions of this defendant?

DR. BERNOT: No further questions.

THE PRESIDENT: You are excused. (Witness excused).

DR. BERNDT: Mr. President, may I ask that Dr. ter Meer, resume the witness stand?

Q. Dr. let us go on to production in Francolor. This morning you said that before the contract was concluded, Francolor cooperation had already existed between Farb en and Francolor. What did you mean by that?

A. In the spring of 1941, if I remember correctly in March, I made Dr. Junk one of my best dyestuffs experts available, in order to work with the experts of Francolor, - what was later Francolor, - and to investigate how we could better employ these factories.

The first practical suggestion was doubtless an order given by Germany to the French factories for the production which they were producing, - that is the dyestuffs. I won't go into this in any more detail for Dr. Simons introduced some documents this morning. In July, 1941, we got the approval of the Reich Office for Chemistry to purchase a large supply of dyestuffs from Francolor, and in June the first order was given by Farb en.

Q. In the cross-examination of Dr. Ambros, we heard some things about transfer of direct and indirect Wehrmacht orders from Germany to French factories. Were these French factories primarily reconverted to such Wehrmacht production?

A. No, certainly not. The Francolor factories remained dyestuffs factories principally, even during the war. In 1941 to 1943, a dyestuffs production amounted to 4,700, 4,500 and 3,900 tons respectively. The corresponding figures for the textile auxiliaries which fall into the dyestuffs field are 300, 400 and 2000, and for organic intermediates, which overhauled the dyestuffs and textile auxiliaries, 17,000, 18,000, and 22,000.

The finished dyestuffs remained in France, that is, 95 percent of them remained in France, or in the export countries of Francolor. This is shown by an affidavit of Dr. Lohr which was introduced this morning. In the same affidavit it is shown that Farb en increasingly supplied Francolor with high grade intermediates in order to promote its dyestuffs production.

Full occupation with dyestuffs could not be achieved, it is true, since all raw materials, acids, alkalis, chlorine, benzene, and naphthalene were rationed according to German regulations, but in Germany too, there was no full occupation in the dyestuffs field any longer.

I believe that anyone familiar with the circumstances must be astonished that it was possible to continue Francolor's dyestuffs production at such a relatively high level.

Q. This morning you said that Forben wanted to assign new products to Francolor. Can you give me any further information about that.

A. This was a special task of the Committee Technique which was set up in Francolor. This committee consisted of 3 French and 3 German technical experts, and met under the Chairmanship of Mr. Fressard. I also asked Dr. Ambros to attend these meetings on occasion, and I myself was there a few times.

Dr. Wank, has given an affidavit about this technical collaboration. That is Document 72 to Meier in Book 3, Exhibit 247. I shall not go into detail here. I should merely like to emphasize that just as the German gentlemen went to France and inspected the factories and attended conferences and gave advice, a relatively large number of their men in the dyestuffs field from other plants went to France, and on the other hand technical commissions and individuals from Francolor went to see our German factories, and sometimes spent days there consulting with the experts. In this field of the various organic products, there was considerable success also in increasing production. Thus the production of synthetic tanning agents arose from 200 tons in 1941 to approximately 1000 tons in '43. The chemicals for rubber goods factories increased from 200 to 1,100 tons. The plastics, artificial resins, etc., increased from 300 to 4,100 tons. In this sector alone it was possible to almost double the former peacetime production of the Francolor factories.

Q. What about the so-called Wehrmacht requirements?

A. In the long run it was simply impossible in view of the . . .

existing restrictions. The same rule is valid in Germany applied also in France to produce only dyestuffs, textiles, auxiliaries and similar purely peacetime products in the Francolor factories. Consequently, in 1942, negotiations began, about which Dr. Ambros was cross-examined. A program for so-called direct and indirect Wehrmacht requirements had to be set up. Actually, this in no case meant gunpowder, explosives or poison gas. What was produced was powder stabilizer such as centralite, diphenylamine, and also mono-nitro naphthalene, a fully harmless preliminary product. All of these were sent to Germany for further processing. It never occurred to us to expect our French colleagues to produce military products, powder, explosives or poison gas. I am not just saying that. I can prove what we did in this regard, and I can cite the St. Clair du Rhone factories in 1942, when Dr. Ambros and I were shown a modern plant built by the French for the production of explosives. This plant was not operating. Of course we could have reported that to the Military authorities and we could have suggested that explosives be produced there. We did not do so deliberately. It never occurred to us because we could never have expected our French friends to do that.

The extent of production of the so-called direct Wehrmacht supplies, centralite, diphenylamine, etc, was very slight. I can therefore fully confirm for myself to what Dr. Ambros said that this was a sort of window-dressing. By this measure we obtained for the Francolor factories a certain justification for their existence, or the appearance that it was necessary to continue the production during war time. If that had not been done, the Francolor plant might have been closed down and the workers would have been sent over to Germany. This was prevented by the steps which we took, and as for the indirect Wehrmacht requirements, these were purely peacetime products such as in part had already been produced in peacetime by Francolor factories. Rapid accelerators and chemicals for the rubber industry, also plastics, adhesives, etc. Here again there is a play on words, because after all, every peacetime product becomes an indirect Wehrmacht requirement - even dyestuffs.

Q. What proportion of Francolor's production went to Germany?

A. By far the majority of Francolor's production remained in France. Among the documents, - the affidavits which are to be introduced which have not been mimeographed yet, there is one by Dr. Loehr confirming the figures that I have just given about dyestuffs production and some other types of products in the years 1941 to 1943. According to this affidavit of Dr. Loehr, who made a report in 1945 to the American authorities about this in 1942, 13 per cent; in 1943, 18 per cent of the total production went to Germany. 87 or 82 per cent of Francolor's production therefore remained in France, Belgium, Spain and Portugal; so-called direct Wehrmacht requirements going to Germany amounted in 1942 to less than 5 per cent of the total production of Francolor. This, as I say, did not include one kilogram of gunpowder, explosives or poison gas.

THE PRESIDENT: Dr. Berndt we will take our recess at this time.

(Tribunal in Recess until 1515 hours.)

THE MARSHAL: The Tribunal is again in session.

DIRECT EXAMINATION (Continued)

BY DR. BERNDT:

Q. Dr. Tor Iker, may I ask you whether you made available chemical machinery to the plants of the Francolor?

A. Yes, For instance, to the factory at Villers St. Paul we made available a very moderate aggregate for the production of formaldehyde, which is a preliminary product for synthetics. This has been shown by Ambros Exhibit 173, in Ambros Book No. VIII. Apart from that, we supplied important spare parts to the Francolor plants, which were no longer available in Franco, and special parts from the synthetic Vindur. That is shown by the Womk affidavit, Tor Iker Exhibit 247, in Book III.

Q. You know that on the 28th of April 1947 you made an affidavit which you handed to the Prosecution, which dealt particularly with the preliminary history of the Francolor Agreement. This is Prosecution's Exhibit 1257, which is to be found in Book 50, on Page 123 of the English, and Page 124 of the German. I know many of your other affidavits. If I now compare this affidavit with the others that you have made I notice that this affidavit about Francolor is made in a very vague form, I would call it. And for that reason, I want to ask you whether you have any remarks to make about that affidavit.

A. Yes: The affidavit was dictated by Mr. Newman, and after I made a few corrections I finally signed it. It was to be supplemented by another affidavit about the Francolor Agreement, but such an affidavit was never propounded because the draft, which again was dictated by Mr. Newman, did not bring about my opinion in the way I wanted it to become apparent. As a result, I then drew up my own report, which went in as my Document 71, Exhibit No. 246, in Book III, Prosecution's Exhibit 1257. I must say first about this, that the preliminary history of the Francolor Agreement is not known to me from my own recollection at all. That is because I didn't participate in the first conferences in 1940, or I was only participating on the fringe of these negotiations, so to

speak. I did participate in a few meetings of the Commercial Committee and of the Dyestuffs Committee, and Mr. von Schmitzler probably informed me about it generally, but I didn't participate in the preliminary conferences with the Armistice Commission, or, if at all, then only once, as far as I remember, when people from the Armistice Commission in Wiesbaden visited our Hoechst plant, and when they subsequently ate lunch in our casino Gruesburgplatz in Frankfurt. In 1940 I wasn't in Paris a single time, and I didn't discuss this affair with the Berlin government agencies either. In the beginning the initiative was all taken by the commercial people. That is the reason why, in this affidavit, I always used such expressions such as "I would assume," or "according to my feeling I would say," or I said, "I believe I remember," or I said "I can't remember details," and so on; and that has been correctly stated by Mr. Newman. As you know, that doesn't correspond to my nature at all.

Q. Do you want to correct that affidavit in any way?

A. No. The affidavit isn't incorrect, as such, for the reasons I have mentioned. It has just been made out in a very vague form. It contains some distorted expressions. For instance, if it says "the negotiations with the French became gradually more friendly," my own expression that I chose, and, again, as I say today, is "the negotiations with the French became very friendly." In my opinion one should more or less disregard this affidavit. I merely want to point out two things:

The definition of the claim for leadership that is rendered in my affidavit is incorrect; I wasn't able to overlook that properly at the time, for I had no documents. I had "The claim for leadership is probably what was later realized in the Francolor Agreement." That is incorrect because the claim for leadership, as it was presented during the meeting in Wiesbaden, confined itself quite clearly to dyestuffs intermediates and textile auxiliaries. The Francolor Agreement, then, was more extensive.

Secondly, I want to clarify on Page 1 of my affidavit, Exhibit 1257, at the end of the second long paragraph, where I mention the memorandum

and internal report of Dr. Kugler. That was a report about the development of the dyestuffs production in France up to the so-called "Gallus Contract," and up to the time when Farben suffered this injustice, in our opinion. It isn't a report about Kugler's and Terhaar's conferences in Paris, which was shown to me in cross-examination as Prosecution's Exhibit 1886.

Q. From what period on did you concern yourself with the Francolor affair more intensively?

A. I would say that was the case from October 1940 on, when, in order to prepare the imminent conference in Wiesbaden, we had internal consultations. Thus, I definitely participated in the meeting in Frankfurt, about which Mr. Knepper testified as a witness when he pointed to Prosecution's Exhibit 1885, in Book 57, and when he was examined about it during cross-examination. That is the meeting about which the same witness testified that at the beginning I was strongly opposed to this 51% participation. Then in the Wiesbaden conference, on the second day of the conference, in the absence of the government representatives, the state of affairs became more clear, I commissioned my associate, Dr. Lochr, to work out the technical aspect of the contract. Dr. Lochr describes that in his affidavit, my Exhibit 275, in Ter Haar, Book No. 14. He suggested to me at the time, as a sample for the technical collaboration with Francolor, that the contract should be taken as a basis which we concluded in 1938 with the I.C.I. about the joint construction of dyestuffs plants in England. We founded the Trafford Chemical Company, together with I.C.I., in that country. The problems were very similar in both cases, Francolor and Trafford, because in both cases transmittal and transfer of our valuable know-how in the dyestuffs field was provided for, as well as collaboration in other chemical production fields. In connection with the Wiesbaden conference, I then participated in the meeting in Paris and currently worked on the point of the contract under the technical aspect of the agreement.

Q. Did you issue instructions at any time, either in 1940 or at a later time,

A. No. By no means. On the contrary, I claim that here I acted very correctly, and in a fair business manner, just as I did in the cases of all other negotiations.

Q. On the first day of the Wiesbaden conferences you were present. According to your own testimony, during that conference to the Ambassador Hammen took a very decided point of view, and that made a corresponding impression upon the French gentlemen. What was your personal recollection to this first Wiesbaden negotiations?

A. Dr. Berndt, we didn't know what tone Mr. Hammen would use in that conference, and I can certainly say for myself and also for the other gentlemen of Farben, that we were very unpleasantly surprised about the harshness of his tone. We were very glad when we could negotiate on the next day, in the absence of the government representatives, and discuss private industrial matters.

Q. Later the negotiations took place in Paris. What was the character of those conferences which were conducted in Paris?

A. In my recollection, in January of 1941, the atmosphere of the negotiations was completely correct and normal. As is customary between business people, the negotiations were conducted in a very off-hand manner; everybody expressed his opinion, and in the further course of the negotiations an extremely friendly atmosphere was prevailing. Everyone represented his own interest of course, but in a very friendly manner. There was an invitation of the French gentlemen at every conference in Paris to take part in a joint lunch, when we again talked to each other in the most friendly manner.

Q. Then, the Franco-German Contract could not be called "dictation of Farben?"

A. Certainly not! At no time was there ever any pre-arranged or ready-made plan, which we wanted to push through under all circumstances. It was very illustrative that in cross-examination of Dr. Eugler the Prosecution offered a few documents which show that in June

these negotiations brought new points all the time from one side or the other side. All of the contract, as is customary in such negotiations, and as was done in the case of many other negotiations with other large foreign concerns, was discussed between important people on both sides, paragraph for paragraph. Everybody expressed his opinion. Sometimes one side had to concede a point; sometimes the other side conceded; and thus, finally, the finished version was arrived at.

Q. Another question now: The Prosecution offered a few reports from 1940, from which they want to take it from certain statements that a pressure was to be exerted upon the French partners in the negotiations. How do you look at those reports?

A. I have already stated before that I did not issue any regulations or instructions for the exertion of any pressure. If we had wanted to exert an effective pressure upon the French, then it would have been plausible to think of the years 1919 and 1923, when gentlemen from those firms appeared in French uniform in our German plants, studied our processes, confiscated our stock-piles, etc. It would have been very simple to send dyestuffs technical men of Farben, also in uniform, into the French plants, at a time when only Northern France was occupied, and to look around for stock-piles, machinery, etc. I believe that would have been a very effective pressure upon those persons, who, in 1919 and 1923, undertook such measures in German plants.

Dr. Berndt, I can tell you that I didn't even think about anything like that. None of my dyestuffs technicians visited any one of those plants of Francolor before the 25th of March 1941. Yes, the 25th of March, 1941. And this first contact of the technical people from Germany with the people from the Francolor plants took place upon prior arrangement with the French. These were the conferences when the shipments of French dyestuffs to Germany for keeping the French factories working was discussed, and when the evaluation of the plants was started

in view of the contract to be concluded. For the rest, during my cross-examination, I already stated that I am not of the opinion that the indications resulting from various passages from the reports about pressure etc. had any significance. Significant was only the entire situation, as it presented itself in France after the entry of German troops. Since I have lived in Northern France for three years and know conditions extremely well, and since I know the country, its people, and its language very well, I may perhaps be permitted to say something that I know very well. Let's take, for instance, the coal situation. In peacetime France never had enough coal, not even today. France always had to import coal from England; and in the western cities on the coast, and those situated along the Seine River, and also in Paris some British coal was always used. France always imported German coke because the French coal mines were not adequate in production to cover the French requirements. Because of the advance of the German armies, or, to put it better, because of the withdrawal of the French armies, the entire French traffic lines had been destroyed, and the coal mines in Northern France which furnished coal to Paris, had also been destroyed, or rather they had been inundated — flooded. There was too much water in these mines, and they had to be pumped out for many months and put back into operation.

That took very long. When in January of 1941 I came to Paris the majority of plants were still closed down. Apart from the hotels, offices and restaurants used by the German agencies, not a single house in Paris was heated and the same picture presented itself to me in Germany in the winter of 1945 to 1946. I remember very well a conversation which I had in the spring of 1941, I don't know the month exactly any more, with the expert consultant for chemical industry of the German military administration in Paris, a man by the name of Dr. Kolb. M. Frossard had asked me to go there with him and intervene on behalf of a coal allocation for his plant Villers St. Paul. Dr. Kolb had called in the official responsible for coal allocation from the military administration and that gentleman listened to the vivid complaints that M. Frossard presented and which I supported and he then presented to us his coal distribution plan. With the aid of this plan he showed that the plant Villers St. Paul had received the amount of coal every month to which it was entitled, an amount which was not sufficient because of the prevailing circumstances and the official responsible for coal distribution explained to us very abruptly that he wouldn't give us a single ton of coal in addition because he just didn't have any more. We had to leave without accomplishing our purpose. As far as I remember the plant Villers St. Paul by the way was not shut down in the winter of 1941/1942. The plant St. Denis, it is true, was shut down because it was in Paris itself and therefore was taken care of even less than Villers St. Paul which is situated North of Paris.

Q. Very well. In order to establish complete clarity about the Francolor contract I want to ask you the following question. Are you of the opinion that the contract would have been concluded even if the government agencies had not intervened in any way and if the negotiations have been concluded on a purely private industrial basis?

A. Yes, I am of that opinion. I have already mentioned that the situation of the French dye stuffs industry before the beginning of the war was very difficult. The events of the war and the political consequences

thereof caused the French to suffer losses in sales, if one only thinks of the removal of the Lorraine and Northern Franco, large textile areas, which all need dye stuffs. Added to that there would have come about losses in export. Nobody could know at the time how the war would end. I am firmly convinced that these reasons and many other reasons would have motivated the French gentlemen to seek an agreement with Farben in some way or other. What I cannot say of course is whether the contract then would have looked the same way, but along the same general lines, it would have looked the same way. I want to confirm my opinion by a reference. Namely, that the Francolor contract was by no means unusual. The Gallus contract concluded in 1921, which assured us participation of one-half of the profits for a period of forty-five years, pointed along the same way. In Italy there were two large dye stuffs plants. In both of them we were the owners together with the well-known Italian firm of Montecatini. In one of them the Montecatini concern had 51% and we 49%, and in the other we had 51% and Montecatini 51%. This arrangement was made in Italy upon instruction of the government. After the collapse of the large Italian dye stuffs plants the government told the Montecatini enterprises "We'll permit you to take over this firm only if you get together with the people in the world who understand something about dye stuffs business and that is the Germans."

Q. You also had certain participations in England and America. How about them?

A. The Trafford Park agreement which has been repeatedly mentioned provided for a Farben participation of 49%, ICI had 51%. In Spain there was a similar arrangement, a smaller enterprise, however, and finally, there was the same thing in America at the time. I believe I have already stated that the Grasolli dye stuffs corporation originally had belonged to the Grasolli Chemical Corporation to 100% and that Farben was offered a participation of 50%, because Farben, in turn, entered into an obligation of turning over their know-how in the dye stuffs field to the Americans which they did not have.

Q. You and your co-defendants are charged in the indictment with various things. I want to go through it with you. The first charge, according to which you had aryanized plants.

A. I don't know what the prosecution wants to refer to by pointing out this Aryanization in the Francolor question. I am perfectly ignorant of the fact whether or not there were any non-Aryan workers or employees employed in the Francolor plants. If it had been the case we certainly wouldn't have worried about it. I don't know either that German government agencies undertook any steps about this affair.

Q. Another charge is that you had brought French expert workers to Germany.

A. Dr. Ambros has already made detail statements about that. I refer to his documents offered by him in Book 8, Exhibits 181 through 190. It was the French themselves who asked us to transfer employees and workers from their plants to Farben plants. In the beginning these were voluntary workers under the so-called Relève. That is to say, juvenile French workers went to Germany voluntarily in order to liberate married French prisoners of war. Later on, all of French industry on the basis of arrangements between the two governments, had to make available manpower in a certain proportion and that also applied to Francolor. They had to supply a comparatively small number of people and in that case M. Frossard attached importance in having these people come to us.

Q. It is thirdly contended that you had dismantled special machinery in France and brought to Germany.

A. That was never done.

Q. Then you are further charged with having transformed the French factories into armaments plants.

A. I have already made very detailed statements about that charge. There can be no discussion about having transformed the Francolor plants into armaments plants.

Q. In the trial brief it is stated that the Nazi government had confiscated the dye stuffs plant Villers St. Paul. Is that correct at all?

A. You are thinking of Prosecution's Exhibit 1240 in Book 75?

Q. Yes.

A. Dr. Kugler has already made statements about that yesterday when he said that that was a sort of off-limits sign. I heard about this affair for the first time through the presentations of the documents of the prosecution and of course I am not competent to say what this exhibit 1240 means. At any rate, one thing is clear. Farben had nothing to do with it at all. The fact that such off limits were used by the German military administration I know from my later activity in Italy when all so-called protected enterprises bore these off limits signs in order to be protected against confiscation by troop units that moved through these towns.

Q. The indictment further contends that Farben had acquired from the German government a dye stuffs plant located in Mulhausen and belonging to the Kuhlmann enterprise without approval of the French owners and without paying them anything. Would you please express your opinion about that?

A. I want to say first that these two Mulhausen factories were repeatedly discussed with the French gentlemen during the negotiations. Both of these Mulhausen factories belonged to the French group which entered into the cartel agreement together with us and the Swiss. One of these two plants had reverted to Swiss possession, that is the owner had become a Swiss and we acquired one-half of the shares and that's an affair with which the prosecution doesn't charge Farben. The plant which belonged to the French group had been confiscated as French property by the chief of the civilian administration in Alsace. On the 8th of May 1941, Farben concluded a lease contract with the commissar administrator of that plant when they entered into an obligation of taking over and keeping employees and workers formerly employed in that plant. This lease agreement provided for a later purchase by Farben. It was undertaken in July 1943. The purchase price for the plant had to be paid to the German civilian administration and therefore there was no possibility of paying

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anything to the former French owners but we did arrange with the Francolor people that after the conclusion of the peace treaty we would talk about this affair with them. I know that Mr. Frossard and M. Duchemin, under the existing circumstances, welcomed this temporary solution very much because their plants thus came under our guardianship and thus we took care of their old employees. I always regarded the acquisition as such and I was completely in agreement with Mr. von Schnitzler, namely that we would carry over this plant belonging to the French dye stuffs group until the war was over and after the peace treaty had been concluded we would make a final and definite arrangement. That was the sense in which Farben took care of this plant. Details are to be found in Dr. Schnoll's affidavit, Exhibit Ter Noet 244.

Q Did you have anything to do with the acquisition of the oxygen plants located in Alsace Lorraine?

A No. As Mr. Jaehne has already stated, the acquisition was undertaken by the chemicals department and by the German Linde Company, by the late Mr. Weber-Andreas. I didn't concern myself about it at all and wasn't asked about it particularly.

Q Dr. Ter Meer, did you participate in the negotiations about Rhone-Poulenc in any way?

A No, I didn't participate in any of these negotiations.

Q About the Rhone-Poulenc question can you make any significant comment?

A I have already pointed out that around the summer of 1941 we began to negotiate with Rhone-Poulenc because at that time the French Government wanted to construct a Buna factory in the Southern part of France in the unoccupied part of France. On the basis of negotiations and conferences with the French Government which I do not know a French group had been formed from the two firms Rhone-Poulenc and Electrochemie for this purpose. As far as I know, the initial conferences took place with M. Buisson of the Rhone-Poulenc firm in the summer of 1941. Then there followed various technical discussions in the autumn of 1941 in which Mr. Ambros and I participated and then in February 1942 we went to Southern France in order to inspect the location which the two French firms had provided for the construction of the Buna factory in the Rhone Valley. Another part of the plant was to be set up in Lyon. At that occasion we were together for days with Mr. Grillet and Mr. Beaux of Rhone-Poulenc. I can say that these negotiations were conducted in the most friendly manner and that subsequently in Lyon Mr. Beaux had the idea of establishing a collaboration between Farben and Rhone-Poulenc in the nylon field which suggestion was accepted by Mr. Ambros and then carried out. I don't know if that is what you want to know from me.

Q I merely wanted to ask you whether you could tell me anything noticeable or significant about Rhone-Poulenc and I think what you said

was worthy of note.

May I correct for the record that you made a mistake before, Dr. Ter Meer. The affidavit of Dr. Schnell is Ter Meer Document 74 in Book 3 and bears Exhibit # 249.

Mr. President, that would conclude Dr. Ter Meer's examination regarding France.

On the 17th of February, 1948, Dr. ter Meer was already asked during cross-examination by Mr. Sprecher of the Prosecution, and I believe that I still have the right to ask Dr. ter Meer now a few questions about that cross examination then. Altogether I have five questions and the question now arises as to whether I should ask these questions now, or whether I should postpone them until after the cross-examination of the Prosecution has been completed.

THE PRESIDENT: That is not highly important, but I believe it would be more orderly, Dr. Berndt, if you would conduct all your redirect examination all together. Permit the prosecution to cross-examine, and then have your re-direct cover the previous testimony as well as that now.

DR. BERNDT: Yes, Mr. President. I would then have to interrogate Dr. ter Meer about the Polish problem. I know, however, that my colleague, Dr. Siemers, has a few questions about the Francolor problem to ask Dr. ter Meer, and I believe it would make for a more exact and understandable examination if Dr. Siemers would ask these questions now, before I start on Poland. But I ask for your decision, Your Honors.

THE PRESIDENT: That is entirely satisfactory, if it is agreeable with Dr. Siemers?.... Very well.

BY DR. SIEMERS:

Q. Dr. ter Meer, in your examination you stated that you participated in the negotiations conducted between Farben and the French gentlemen until the Francolor agreement was concluded. In most cases, or always, did you participate in those negotiations conducted between Farben and the French people before the war, or between Farben and other foreign people, for instance, Swiss, or people from ICI?

A. Do you mean the negotiations of the so-called dyestuffs cartel...? Yes, I did participate in these negotiations approximately beginning with 1933. These negotiations took place every three months, and a large number of people participated from each group, for the most part.

For instance, from Farben six to ten people frequently, according to the number of points on the agenda. The subject of those negotiations, of course, was commercial, but since technical things were also touched upon occasionally, each group brought along one technical expert — and thus I represented Farben in most of the cartel meetings.

Q. According to the trial so far, I assume that Mr. von Schnitzler participated in all of these negotiations before the war and also during the war. Is my assumption correct?

A. Before the war Mr. von Schnitzler did participate in all cartel meetings, as far as I know, unless he was prevented from doing so due to illness. That is something I can't remember, of course. He was the spokesman for Farben. In regard to the negotiations after war had broken out, the negotiations with the French, here again Mr. von Schnitzler was the spokesman and participated in practically all of the negotiations, apart from the negotiations in July 1941 when he was sick, and when I deputized for him.

Q. Was there anything in the personal manner and in the form of the negotiations? Was there any difference in the tone of the negotiations before the war and during the war that were conducted with the French?

A. Apart from the meeting in Wiesbaden on the first day of that conference, which was conducted very informally, and when we were not permitted to shake hands with the other partners because the Government representatives did not do so either, the tone, apart from this, was friendly and was conducted in the same manner as it was done before the war. I would say that from the early summer of 1941 on it became more friendly than before the war, for then we had a certain number of serious disputes with the French. And since we had arrived, in the case of the Francolor contract, at a point where both partners knew what the contract would look like, a sentiment of friendliness made itself felt between the two groups which, in my opinion, exceeded the friendliness that had existed before the war. At any rate, it is absolutely applicable to my

person. It is difficult, of course, to describe the sentiment of other persons, but it is my feeling that this was also true of Mr. von Schnitzler and for the French gentlemen.

Q. Was the type of negotiations similar to the type of negotiations conducted previously with the Swiss, British or American?

A. Yes, of course, we did our business in the same pleasant and frank manner as we did with the Swiss, English and Americans before.

Q. The commercial negotiations, as you have correctly stated, were conducted and led by Mr. von Schnitzler. Since you were present in your capacity as a technical man, you can perhaps best formulate a judgment about the form and nature in which Mr. von Schnitzler conducted such international conferences personally. In view of the fact that Mr. Schnitzler did not take the witness stand, I would be grateful to you if in this connection you would also give a brief picture of Mr. von Schnitzler's person, particularly because you were the closest collaborator for many years.

A. The witness, Dr. Kuepper, during his examination on the 28th of January, 1948, described the person of Dr. von Schnitzler in such a detailed manner, about his activity in Farben, about his merit for bringing about and maintaining the French dyestuffs business, that he was subject to an objection, and for reasons of saving time I do not want to repeat all of that again. But I want to state expressly that I can only confirm the statements that extended over many pages, about the manner in which Mr. von Schnitzler used to conduct his negotiations and about how he was judged by the other partners in the negotiations; that I read these pages and that I can confirm them as being my opinion in all points.

These statements of Dr. Kuepper are on the record on pages 5984 to 5991 of the English transcript and on pages 6039 to 6048 of the German transcript. I may add from my personal recollection that to the best of my knowledge I was together with Mr. von Schnitzler in the United States three times. These were the negotiations in 1930 through 1933 with the newly incorporated American dyestuffs plants, where Mr. von Schnitzler

in his very apt manner was able to start friendly relations. From later visits with these firms I know and can confirm that the people from Dupont and National Anilin and the Dow Chemical people liked to see Mr. von Schnitzler and welcomed very much having him remove a number of collisions of interest that had occurred, especially in the Far East, to the best interests of all people concerned.

DR. VON KELLER: Mr. Sprecher was friendly enough to point out to the Defense that there has been a mistake in the translation. The word "inept" should be replaced by the word "apt".

THE PRESIDENT: Very well.

A. Since the French problem is under discussion here I want to add a few things to this point in particular, since from many conversations with Mr. von Schnitzler I know his opinion very well. Already in 1927 Mr. von Schnitzler, on behalf of the German Government, participated in the negotiations about the Franco-German trade agreement. That was at a time when Strassemann was in the government, when for the first time after the war and after the invasion of the Ruhr an approach between Germany was being brought about. We German industrialists know very well the significance of economic collaboration between Germany and France.

We were very well acquainted with the mutual interests in the steel industry, of German coke shipped to France and French ore being brought to Germany; with the mutual interests in the chemical industry -- potassium industry and the textile industry. It was in keeping with this spirit that in 1941 and '42 Mr. Schnitzler judged matter. He also hoped at the time that a moderate peace treaty between Germany and France would deepen the economic collaboration of both countries. That was the expectation and the hope of many people in Germany as well as in France at the time. And that was also the concept of decisive persons in the German military administration in France.

Thus, for instance, the chief of the Economic Department, Ministerialdirigent Michel, who is mentioned now and again in the documents.

Very disappointed and unhappy we looked on, when the then political leadership in Berlin missed their last chance in that connection, and still today it is my opinion that a magnanimous peace treaty with France with the immediate release of all prisoners of war around the turn of 1940 to 1941 would have saved much suffering to Europe.

Q. You confirmed the picture about Mr. von Schnitzler's picture that Dr. Kuepper gave. Dr. ter Meer, you were together with Dr. von Schnitzler not only in good days when you were at liberty but also during bad days, during days when you were both imprisoned. Rounding out the character of Dr. von Schnitzler, I would like to have you say a few words about your connection in those circumstances so that one can get a picture of his psychological attitude.

A. As far as I remember, Mr. von Schnitzler was brought to the Cransberg Camp on the second Christmas day of 1945, where I was already since July of the same year. Since he was billeted in my room, of course I got a very clear impression and recollection about this time. I would say that one could not recognize Mr. von Schnitzler again. I hadn't seen him for quite a long time; probably the last time I saw him was in the autumn of 1944 because I was in Italy.

One could not recognize him. He gave the impression of a man who had withstood very difficult times. He told me again and again what treatment he had been accorded in the prison. It took months before he recovered from this depression.

Q. I now come back to the negotiations between Mr. von Schnitzler and the French gentlemen until the Francolor was incorporated. The Prosecution contends that Mr. von Schnitzler, or Farben, conducted these negotiations with the intention of delaying, that is, they procrastinated, in order to achieve a more favorable result. Is that correct?

A. Dr. Siemers, as I have already stated, from the beginning of the Wiesbaden negotiations I took part in all of the conferences. Therefore, I have a clear judgment about it. There can be no talk that these negotiations were treated in a procrastinating manner in any way.

Let us take the first negotiations in January of 1941, that is, the first after Wiesbaden.

The date for this conference was suggested to us in writing by Mr. Duchemin. Then came the negotiations in March, and subsequently, as far as I remember, in April, June, July, and so on. To the best of my recollection, the time granted was only given because it was necessary to study material or to give the lawyers in France or our lawyers a chance to study their problems, or in individual cases, in order to get approval or wait for the attitude expressed by the government.

And without any unnecessary interruption we kept on negotiating without having any tendency towards procrastination. Quite apart from that, it would have been senseless to delay because, beginning with the spring of 1941, we already began to collaborate with the French as though the contract had already been concluded. You must only think of the transmittal of the dyestuffs orders.

Q. Who drafted the agreement with Francolor?

A. There are two contracts contained in the French contract, and therefore a division of work was undertaken. Farben undertook to work on the so-called St. Gobain contract. That is the contract between Farben and the three French parent-firms. The much more extensive and basic corporation contract was drafted by the lawyers of Kuhlmann and the firm of St. Gobain under the advice of Maître Deguchy, a special expert. Both drafts were the subject of discussion during our joint meetings.

Q. As Dr. Kuepper has already told us, Farben originally only wanted a participation of 51 percent. Dr. Kuepper showed how this came about for legal reasons that a 51 percent participation was demanded — I am informed that the first sentence was "51 percent." It should be "50." May I perhaps repeat the question?

As Dr. Kuepper told us, Farben originally wanted a 50 percent participation only. Dr. Kuepper gave the legal reasons why at a later time one demanded a 51 percent participation. As he said, that was done in order

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to bring about the intended parity between the two groups. May I ask you to tell us what this looks like in your recollection, and what reasons were decisive for Farben's demand to participate to the extent of 51 percent?

A. About the question whether 50 per cent or 51 per cent, such has been said, — very much has been said. Internally, that is within Farben and also with the French people and the French lawyers. As a matter of principle I would say first that Farben did not intend to acquire the major share in the new enterprise or to dominate it in any way. I may confirm that in detail. If a firm at home or abroad has a participation in any firm of more than 50 per cent, then it is the usual consequence of such a majority participation, that that firm also undertakes the business management of that other firm concerned, or that at least they dominate the other firm.

Let's take an example. The German Opelwerke, the largest German automobile plant, was controlled in the majority of their shares by General Motors, and the business management in Germany, was American. I personally knew the American gentleman in charge of the business of the Opel plant in Russelsheim. That is the usual form. But in the case of Francolor that was not done. It is true that Farben had a 51 percent share, but they did not dominate the business management. In the case of a French corporation the business management is handled by the Conseil D'Administration. This Conseil D'Administration elects from among its own ranks, the Chairman, who is solely in charge of the entire business management of the enterprise. The Convention of Francolor provided first, that an equal number of members in the Verwaltungsrat be appointed by the French and German groups, whereby at least the members appointed by the French should be of French nationality.

Secondly, that the Chairman always had to be of French nationality, and should be a member of the French Verwaltungsrat.

MR. SPEECHER: I am sure this examination has been planned very carefully by Dr. Siemers and Dr. ter Meer, but it seems to me that it has now reached certainly the point of pure argumentation, where the questions which are certainly not new here are merely being phrased by the defendant in terms of extractions from the basic Francolor Convention and comparing them to

a number of other things which is beautiful brief material, but it seems to me it hasn't anything to do with the taking of evidence.

THE PRESIDENT: The Tribunal is very much impressed that a lot of this testimony has been highly repetitious. We have gone over this territory so many times that I think counsel can well pass on to something that has some semblance of novelty about it. We have heard this story several times now, and I do not think anything would be gained by repeating it. We understand all I think that has been said about the reasons back of the stock division as between the 50 and the 51 per cent.

The time is yours, gentlemen, but I think you could put it to a better use.

DR. SIEMERS: I am very glad to hear that the Prosecution has finally now understood this point, which unfortunately they did not understand in the previous months. Therefore, we can comply with the request of the Tribunal and abbreviate this.

Q. May I merely ask you, Dr. ter Meer, to tell me what one could actually assert or push through with those 50 per cent; one could not appoint a Verwaltungsrat member, one could not appoint a new chairman. What could one do, actually, with this 51 per cent?

A. First one must emphasize again that those 51 per cent did not have any effect upon the business management bodies of those enterprises. That was 50-5, 4 to 4, and the predominating or preponderating weight was the French chairman, who had the decisive vote according to the French law.

With this 50 per cent of share participation, Farben could only be heard in the general stockholders' meeting, a body which has nothing to do with the business management. There they could recall the President. This form, at the suggestion of the French lawyers close to Farben was chosen at the time in order to create a counter-weight against the preponderating weight of the Chairman within the scope of the busi-

management. It was not possible, according to French law, to elect a second business manager, a Vice Chairman, or something like that. That was expressly prohibited by law. Therefore Farben had to have some measure in order to act if the French Chairman, for instance, violated the existing contract, and thus, Farben insisted on these 51 per cent. They actually only were to bring in a balance, as Dr. Knepper expressed. In my opinion, it was a safety valve, but which one left closed best of all, and which reasonable people on both sides would never have used. That is the way I looked at it.

Q. During the common work within Francolor did any differences of opinion appear with the business management, with the Chairman, which caused this so-called safety valve to be used, or which caused one to consider as to whether or not one should now make use of the safety valve?

A. No, it was never used, and it was never discussed. There were no differences.

Q. Dr. ter Meer, after the contract was concluded in November, 1941, did you again speak to the French gentlemen, and if so when did you last see them or speak to them?

A. I probably attended regularly the meetings of the Conseil D'Administration in Paris, and these meetings were conducted probably three or four times a year. I cannot state that exactly now. The last meeting in which I probably participated, was the summer meeting in 1943, — June, 1943, shortly before I went to Italy. Then I no longer attended.

Q. What was the tone and the nature of negotiations in those conferences where common work was done within the Francolor?

A. I can describe it only that there was one spirit, one heart and one soul. The negotiations in the Conseil D'Administration were of an absolutely friendly nature. There were no conflicts of interests, and the same also applies to the meetings of the Technical Committee in which I repeatedly participated. I can only repeat and say that this contract

covered the interests of both partners in such an excellent way that no differences of opinion ever crept up.

Q. You say the contract met the interests of both partners in a very excellent way; in that connection I have one last question. Did the French or any one of the French gentlemen, at any time, express their particular gratification or say anything to you or to Mr. von Schnitzler about the common work, the common interests, and the Francolor contract, not only by their attitude, but even, actually expressed in words?

A. Yes, that was done one time in a very definite and tangible manner. That was during a luncheon which the French gentlemen had after the signing of the contract, probably in the second half of November. It was the customary circle of the French gentlemen that were present, and from our side again the people who were represented on the Conseil D'Administration, and a few other people who had participated in the negotiations; a group of approximately 12 or 15 persons. At the time Mr. Frossard got up and made a speech, which in my opinion, exceeded the form of mere politeness, for he was visibly touched and strongly impressed personally. He said at the time that he wanted to express to his colleagues and the people from Farben, his personal gratitude for the fine confidence and trust that was placed in him by appointing him Chairman in this new firm. On that occasion he also said that the contract, in his opinion, could be called ideal, since it met the interests of both partners in such an excellent manner.

DR. SIMERS: Thank you very much. I have no further questions.

DR. BERNIT: Mr. President, I do not think I can start on the Polish problem today, but with your Honors' permission I would be able to use those two minutes in order to ask Dr. ter Meer three questions about the Russian problem. Thank you very much.

Q. Dr. ter Meer, during your cross-examination on the 17th of February, 1948, the Prosecution submitted to you Exhibit 1881, which is an affidavit that you rendered on the 23rd of April, 1947, about those

trustee corporations which were to be founded in Russia and about the Synthese Kautschuk Ost G.m.b.H. Do you have anything to change in that affidavit?

A. No, the affidavit is in order.

Q. Then the second question. What happened to the Synthese Kautschuk Ost G.m.b.H.?

A. Nothing at all, Dr. Berndt. It was never incorporated. Only drafts for the contracts were worked out and discussed with the competent people from the Reich Ministry of Economics. It was a draft of the Trustee Agreement between Farben, the Reich and the Synthese Kautschuk Ost G.m.b.H., and two drafts of the letters that were to be written in connection with the contracts, but neither the contracts nor the two letters were ever prepared.

Q. The last question now; the entire affair came to nothing; is that right?

A. Yes, that's correct.

THE PRESIDENT: The Tribunal will rise until 9 o'clock Monday morning.

(Tribunal in recess until 0900 hours 3 May 1948)

CERTIFICATE OF COMMISSIONER

Under directives of United States Military Tribunal No. 6, testimony of witnesses listed below was required to be taken before the undersigned Commissioner. Pursuant thereto the said Commissioner has conducted hearings at which the following witnesses have fully testified:

<u>Date</u>	<u>Name of Witness</u>	<u>Official Transcript</u>
8 April 1948	Walter Harliment	10875-10907
9 April 1948	Kurt Krueger	11128-11163
12 April 1948	Karl Weber	11165-11175
12 April 1948	Paula Ester	11177-11199
13 April 1948	Ernst Struss	11293-11338
14 April 1948 &	Christian Zahn	11444-11490
15 April 1948	" "	11587-11612
16 April 1948	Bernhard Schoener	11706-11723
19 April 1948	Adalbert Feindal	11827-11841
20 April 1948	Josef Grobel	11842-11860
20 April 1948	Gustav Pistor	11861-11878
21 April 1948	Emil de Haas	12098-12128
21 April 1948	Heinrich Schuh	12129-12140
23 April 1948 &	Heinrich Schindler	12337-12370
28 April 1948	" "	12707-12777
26 April 1948	Walter Kikuth	12461-12498
26 April 1948	Hans Sauert	12500-12512
27 April 1948	Wilhelm Duellberg	12598-12621
29 April 1948	Theo Goldschmidt	12871-12909
29 April 1948 &	Anton Reithinger	12910-12953
30 April 1948	" "	13075-13092
29 April 1948 &	Rudolf von Spreddy	12954-12960
30 April 1948	" "	13065-13075
30 April 1948	Rudolf Schmidt	13093-13133
5 May 1948 &	" "	13620-13629
6 May 1948	" "	13651-13719
3 May 1948	Wolfgang Alt	13246-13269
3 May 1948	Carl Gadow	13271-13291
3 May 1948 &	Kurt Hartmann	13292-13316
4 May 1948	" "	13412-13450
4 May 1948	Fritz Dion	13450-13460
4 May 1948	Kurt Eisfeld	13461-13479
4 May 1948	Adolf Taub	13480-13489
5 May 1948	Ernst Struss (for Pres.)	13566-13619
6 May 1948 &	Werner Schmitz	13720-13735
7 May 1948	" "	13861-13891
10 May 1948	Max Winkler	14173-14181
10 May 1948	Fritz Hirsch	14195-14209
10 May 1948	Ernst Kraschewski	14210-14220
10 May 1948 &	Franz Fuerstenberg	14221-14245
11 May 1948	" "	14377-14384
11 May 1948	Heinz Savoleberg	14387-14424
11 May 1948	Karl Munscheidt	14425-14439
11 May 1948	Reinhold	14440-14455
10 May 1948	Friedrich Selcher	14482-14494


During the said proceedings the following exhibits have been offered in evidence:

PROSECUTION EXHIBITS

<u>Exhibit</u>	<u>NI No.</u>	<u>Official Transcript</u>
2302	PS 2353 C	10899
2303	L79	10904
2304	14036	11145
2305	14034	11182
2306	15070	11183
2307	14236	11302
2309	14232	11312
2311	15062	11327
2312	15063	11330
2314	14257	11466
2315	13524	11473
2316	14256	11473
2317	14251	11485
2318	14252	11476
2319	14014	11482
2320	14039	11834
2321	13084	11848
2328	10532	12615
2329	10528	12616
2323	10907	12706
2330	13525	12733
2331	15021	12878
2332	3763	12915
2333	15115	12921
2334	15116	12923
2335	8647	12927
2336	15132	12933
2337	1514	12942
2338	14098	13106
2339	13534	13111
2340	15215	13126
2341	15260	13620
2342	15173	13286
2345	7637	13728
2346	7666	13730
2352	15290	14382
2353	15296	14392

I, the undersigned Commissioner, do hereby certify that the
aforesaid official transcript pages comprise a full, true and correct
report of such proceedings, testimony and evidence heard and recorded
therein before me.

Dated at Kurnberg, Germany, May 28, 1948.


 JOHNSON T. CRAWFORD
 Commissioner of Tribunal No. 6

OFFICIAL TRANSCRIPT OF A HEARING BEFORE A COMMISSIONER
FOR MILITARY TRIBUNAL VI, CASE VI, IN THE MATTER OF
THE UNITED STATES OF AMERICA AGAINST KARL KRAUCH, et al,
DEFENDANTS, SITTING AT NUERNBERG, GERMANY, ON 30 APRIL
1948, THE HONORABLE JOHNSON T. CRAWFORD, COMMISSIONER,
PRESIDING.

THE MARSHAL: The Commission of Tribunal VI is now in session.

THE COMMISSIONER: You may proceed with the examination.

MR. AMCHAN: With Your Honor's permission, we shall continue
with the examination of the witness Sprety in connection with Schmitz
document No. 53.

RUDOLF VON SPRETTY (Resumed)

CROSS EXAMINATION (Continued)

BY MR. AMCHAN:

Q Now, Mr. Witness, at recess time yesterday you had told us of
your first meeting, in or about 1938, that you had with the defendant
Schmitz, wherein you discussed with him the matter of having the property
of your father-in-law, Arthur Weinberg, transferred to his adopted
daughters; is that right?

A I would only like to mention briefly that of course it was
not the first meeting with Dr. Schmitz, but it was probably the first
conference with him on this matter, because I had known Professor
Schmitz prior to that.

Q That is right; I am only inquiring about your conferences
with Schmitz in connection with the affairs of Arthur Weinberg.

A Yes, I assume that was the first conference about this
property affair.

Q What was the result of that conference?

A As far as I remember, Dr. Schmitz was of exactly the same
opinion as I, that it was correct to take as much of the property of
my father-in-law as possible and transfer it to his two adopted daughters.

Q When did you next see the defendant Schmitz in connection
with the affairs, either regarding the property or the person, of your
father-in-law Arthur Weinberg?

A I don't think that I talked with Dr. Schmitz about this matter again.

Q When was Arthur Weinberg taken to a concentration camp?

A Shall I be brief about answering this question or shall I go into detail?

Q First, make it brief, and if necessary, we will let you explain further.

A On 2 June 1942, in the morning, he was arrested in Hoeschschloss Pehl and was brought to the Gestapo in Munich, where I met him.

Q So, if I correctly understand you, in June 1942. . .

A On 2 June 1942.

Q Yes, I so understand you. He was taken from the house of your wife?

A Yes.

Q To the Gestapo?

A Yes.

Q Was that the first time he was taken away from his house and deprived of his liberty?

A Yes.

Q Now, before this date when he was taken to the Gestapo, was he living peacefully, unmolested, at your wife's house?

A In Pehl, he lived unmolested.

Q Alright.

A Because this was in the country.

Q Alright. Then on the 2nd of June 1942 he was taken to the Gestapo and, did I understand, that the next day you went to see him?

A On the same day.

Q On the same day?

A Yes.

Q And where did you go?

A May I briefly explain it? On 1 June, in the evening,

towards 7:00, I received an urgent telephone call from my wife in which she informed me that in the afternoon two Gestapo officials from Munich had arrived in Pehl, who had forbidden my father-in-law to leave the castle until further notice. They confiscated his property there and they left a mimeographed note behind from which it could be gathered that it was intended to take him away. My wife asked me to come as quickly as possible and told me that the father is also right near the telephone. Geheimrat von Weinberg repeated to me briefly what my wife had already told me, and he added that he would not do this under any circumstances, and we gathered from that that he did not expect to live beyond the next day.

Q How old was Arthur Weinberg at that time?

A It was shortly before his 82nd birthday. On 11 August he would have been 82. I told my wife that I would immediately go to Munich, and she should send her chauffeur to the sleeper the next day with the paper of the Gestapo and I would immediately go to the Gestapo. On the next morning, the chauffeur was at the train and told me Herr Geheimrat was already arrested and was on the platform in the station. He was there, escorted by a policeman — escorted by the local policeman of Pehl — who behaved very quietly and reticently. I heard from my wife's chauffeur that this local policeman that night, at 11:00, when everybody was sleeping, had told my wife's chauffeur that on the next morning he would have to take the Geheimrat to the Gestapo at Munich on the first train which left, I think at 7:00, for Munich.

Q Now that same day Arthur Weinberg was taken to the Gestapo headquarters, and you saw him there?

A Yes, on the station.

Q And how soon thereafter was he taken to a concentration camp, do you know?

A Yes, I know exactly. Together with my father-in-law and the policeman and chauffeur who were quite a distance away from us, I went from the station to the Gestapo headquarters in the Wittelsbacher

Palais in order to have an opportunity, in this way, to speak with him.

Q Well, could you, Witness, just briefly and omit the detail, just tell me, when he was taken to the concentration camp, and what you did after that with respect to communicating with the Defendant Schmitz as to the situation of your father-in-law? Try, if possible, to omit the details.

A I didn't understand the last part of the question. To get in touch with Farben about the matter, something . . .

Q No, first, just tell me first, as best you can, how soon after you saw Weinberg at the station in Munich was he taken to a concentration camp? Just tell me, was it a week after that, or two? Just give me the time.

A I accompanied him to the office of the Gestapo, that is, the Jewish department, and no one prevented me from staying with him. I spoke with the officials who explained to me, upon my frequent questioning, that he would not go to the East, but as an honor, and this expression was actually used, he would go to Theresienstadt.

Q Which was the concentration camp?

A Yes, a Jewish concentration camp. I was assured that he would only be transported the day after tomorrow, that is, two days after this particular day, and until that evening, about 5:00 o'clock, he remained in the Gestapo building unmolested and in my presence. I left twice in order to phone Dr. Gierlichs in Berlin.

Q Now, to get this organized and get it for the essential facts we are interested in. You got in touch with Dr. Gierlichs the first week in June 1942, and told him that Arthur Weinberg was being taken to the concentration camp. Do I understand that to be your testimony?

A That's right.

Q Had you known Dr. Gierlichs before that time?

A Yes.

Q Why did you get in touch with Gierlichs?

A Because Gierlichs and Schmitz were the two people whom we trusted with regard to property matters.

Q Alright. Now, what did you tell Gierlichs at that time?

A On the first of June, in the evening, before I left for Munich, I visited the lawyer, Dr. Martens, in Berlin.

Q I really don't mean to interrupt. Could you get to the matter directly?

A And I told him to inform Dr. Gierlichs and Farben about the imminent arrest of Weinberg. On 2 June, in the morning, I called Dr. Gierlichs by phone and he told me that they were already working on it hard, and in the evening I should call them up again.

Between four and five my father-in-law was brought to the Jewish Old Peoples' Home by a Gestapo officer. After that I called Gierlichs and he told me to ask my father-in-law whether he would agree to be resettled to Italy. Perhaps then, they could do something.

Q Now, after Arthur Weinberg was taken to the concentration camp in June, 1942, did he ever return home?

A No.

Q Is it a fact, that in June 1942, when he was first taken to the concentration camp, he stayed there until he died in March 1943, in the concentration camp? Is that the fact?

A Yes. Yes, it is proved.

Q I want to be definite that the period of incarceration of Arthur Weinberg, that extended from the first week of June 1942 to March 1943, is that right?

A In violation of the promises given to us, he was already transported to Theresienstadt on the next day, that is, the 3rd of June, 1942. Because of the fact that another inmate had thrown himself out of the window, one of the seats in the railroad train had become vacant. From the third of June on he was in Theresienstadt uninterruptedly and on 20 March 1943, he died there, 82-1/2 years old.

Q Now, you state in your affidavit, that you turned to Schmi

for help, Schmitz immediately mobilized his staff, and that Professor Krauch was to tackle Himmler himself. Now, tell me, what you know from your own personal conversations or discussions with Schmitz, what steps he took or what he told you he was going to do, and if possible, fix the time when these things happened.

A These further conferences did not take place with Geheimrat Schmitz, but with Dr. Gierlichs.

Q Alright, to make sure I understand you, after Arthur Weinberg was taken to the concentration camp, you yourself did not converse with Dr. Schmitz, but with his assistant, Dr. Gierlichs, is that right?

A Excuse me, that's a misunderstanding on my part. Immediately after the arrest, after I returned to Berlin, I informed Dr. Schmitz, but the further negotiations went via Dr. Gierlichs.

Q Now, just tell me very briefly, and I emphasize very briefly, what steps were taken by Schmitz and Krauch to secure the release of your father? What steps do you know were taken?

A As far as I was informed, steps were undertaken that my father-in-law would get the permission to move to the estate of my sister-in-law, the sister of my wife, in Mecklenburg, if the Gauleiter there would give his consent for that. This approval could not be obtained in the beginning, and while these negotiations were still going on, my father-in-law died.

Q To be entirely correct that I understand you, is that, in short, the situation: Your father-in-law, Arthur Weinberg, was taken to a concentration camp in June, 1942, and from the period of June 1942 to March 1943, Schmitz and Krauch made efforts to secure his release and they made those efforts up through March 1943 at which time, Arthur Weinberg died in the concentration camp. Is that a fair statement of the entire matter?

A The way I know it, yes.

Q That's a fair statement as I have put it to you?

A Yes.

MR. ANCHAN: No further questions, if your Honor please.

REDIRECT EXAMINATION

BY DR. GIERLICH: (for Geheimrat Schaits):

Q Mr. Spretty, I have just a few questions. The prosecutor asked you, what kind of difficulties existed, which your father-in-law told you in Hoppegarten, as the reason why he was leaving the administration of Farben. Now, I want to ask you one thing about that. At that time, for someone living in Germany who therefore knew the conditions, was there any doubt for such a person that the activity of a Jew in such an exposed place would create difficulties for him, or would create extreme dangers for him as well as for the concern he was working for?

A For somebody who knew the conditions in Germany, there were no doubts about that, because even I, as a result of the situation then, had to resign all my official positions because, according to Nazi concept, I was not a pure Aryan.

Q Until 1938, was the situation such that the Jews, until that time, remained in their positions, generally speaking, or did this process of voluntarily withdrawing from industry and other positions take place before that?

MR. ANCHAN: If your Honor please, we object to that. It is going into the field of the general situation in Germany. The witness was only interrogated on the particular situation of Arthur Weinberg, and in our view, it is not a proper redirect. It is covering the general situation in Germany.

DR. GIERLICH: The Prosecutor, at least I understood him that way, during the cross examination yesterday, could not quite understand the difficulties which Arthur Weinberg faced in 1938. Through my questioning, and in specific connection with the person of Arthur Weinberg, I tried to show that it was an absolutely special case that in exposed positions, and that this condition was difficult for the people involved as well as for Farben; that it was a danger for them

and therefore I think that this question is within the redirect examination. Therefore, I ask you to answer.

THE WITNESS: The matter is quite clearly proved by the fact that I myself could no longer work after 1935, and it was a rarity and an exception that my father-in-law was able to continue as a leading person in the Farben management.

BY DR. GIERLICH:

Q Thank you. Then I have one question about the efforts of Farben in order to secure the release of your father-in-law. You answered the last question of the Prosecutor by saying that from 3 June 1942 to 20 March 1943, the unsuccessful efforts of Farben to release your father-in-law were proceeding. Now, I want to ask you the following. Do you remember when, approximately, I don't want to pin you down to a day, the answer of Himmler to the efforts of Farben arrived or was received?

A I cannot answer that exactly, because these negotiations about the transfer to the estate of my sister-in-law were conducted by my sister-in-law.

Q Thank you. Then, do you remember the fact that, as a result of the efforts of Farben, a letter of Himmler and of his agency was received, to the effect that he could leave Theresienstadt as long as he would move to the estate of the Princess Lobkowitz and the approval of the Reichsstatthalter would be obtained for that?

A Yes, that's correct.

Q Do you remember that these efforts, that is the efforts to secure the permission of the Reichsstatthalter were also proceeding for a number of weeks when you were informed of the death of Arthur Weinberg?

A Yes, that is also correct.

DR. GIERLICH: Thank you, I have no further questions.

RECROSS EXAMINATION

BY MR. AMERMAN:

Q I am interested, Mr. Witness, in the Himmler letter that you just referred to. Now take the starting point of March 1943, the date when Arthur Weinberg died in the concentration camp. Could you tell me how soon, how long before that date, the Himmler approval for his release came through?

A I cannot give an exact answer to that.

Q Could you approximate it? One month, two months, or three months?

A I would estimate that it was two months before, perhaps.

Q Now....

A But that is only an estimate.

Q Taking your estimate, which I assume is your best estimate, does the situation come down to this, that it required a period of two months' negotiation with the local Gauleiter to get his approval to permit your father-in-law to come back to-- what is the place, Mecklenburg?

A Seran.

Q Seran. Negotiations were going on for about two months with the Gauleiter at Seran in order to get his approval pursuant to Himmler's order to permit your father-in-law to be released. Is that a fair statement of the situation?

A Yes, and this period of time was absolutely possible.

Q Now then, was the Himmler approval for the release of your father-in-law set forth in a letter, do you know?

A I didn't get any letter.

Q Who informed you that Himmler had approved of the release of Weinberg from the concentration camp, subject to clearance with the local Gauleiter? Who told you that?

A I assume, pretty certainly, that it was Dr. Gierlichs, and also the sister of my wife.

Q And your source of information then is what Gierlichs and your wife told you about Himmler's approval for your father-in-law's release?

A Yes.

MR. AMCHAN: No further questions.

FURTHER REDIRECT EXAMINATION

BY DR. GIEPLICH:

Q Count Spretty, did you ever see the letter or the written notification which Farben got by Himmler or his office?

A No, never.

Q Did your sister-in-law ever tell you of the fact that she had the letter in her hand, as a basis for her negotiations concerning the aforementioned permission?

A No; she told us that the situation was thus and so.

Q Now I have a final question. Do you know, from conversations with your sister-in-law, that, at that time, Princess Lobkowitz had been contacted, on the basis of the Farben efforts, after the approval of Himmler concerning the release of your father-in-law from Theresienstadt, and that Princess Lobkowitz then asked us--that is, Farben--to leave the negotiations with the Reichsstatthalter to her because she was hoping to get quicker results by using a man who had personal contacts?

A Yes, that is correct, and for that purpose she had hired a lawyer in Guestrou, whose name I no longer remember. He was a friend of the Reichsstatthalter of Mecklenburg, and through him she hoped to be able to do more than if she were just negotiating via Berlin.

Q And is it correct, in this second negotiation--that is, to get the approval of the Reichsstatthalter--that Farben did not become involved until many weeks later, shortly before the death of your father-in-law, after the direct efforts of the family were unsuccessful?

A That is true, as far as I remember.

DR. GIERLICH: No further questions.

THE COMMISSIONER: There being no further questions, the witness is excused.

(Witness excused)

DR. HOFFMANN: The next witness to be examined is the witness Reithinger.

THE COMMISSIONER: Very well. Let the witness Reithinger be called.

ANTON REITHINGER, a witness, having been previously duly sworn, resumed the stand and testified further as follows:

THE COMMISSIONER: I believe the witness was sworn yesterday. He is reminded that he is still under oath.

You may proceed.

DR. ASCHENAUER: Mr. Commissioner, I wish to take up the examination with reference to document 3769, Exhibit 2332, which was introduced yesterday by the Prosecution.

DIRECT EXAMINATION

BY DR. ASCHENAUER:

Q Witness, you said yesterday, in the examination by the Prosecution in reference to your affidavit of 29 January 1947, Exhibit 2332, that you were in a difficult position, so far as this affidavit is concerned, because this affidavit was submitted to you and it does not actually come from you. Therefore, I wish to ask you was this affidavit made out by you?

A As I said yesterday, the affidavit before me is the result of several lengthy interrogations which were conducted in the winter of 1946-1947. It was formulated by the Prosecution, and it was submitted to me in that form. At that time, in several days of negotiations, I tried to remove important errors and misunderstandings. As a compromise of these negotiations, we were left with a number of possibilities, assumptions, and judgments, which are formulated as

contentions, and thus they give a wrong picture. On the occasion of these negotiations and the affixing of my signature under this affidavit, I told the Prosecutor that on the witness stand, while under oath, I would not be able to confirm a number of the contentions contained therein, because I do not have the positive knowledge for that.

Q Who interrogated you about this affidavit?

A So far as I remember, it was a lady, Miss Belle Hayer.

Q I think, witness, it would be best to go through the affidavit, without being able to claim that it is complete.

Witness, under 1, you say, or rather, the Prosecution says, under "1"—I think it might be better to put it that way—that Dr. Heinrich Gattineau—

MR. ANCHAU: One moment please. I have no objection to him asking the witness questions; we object to him characterizing an affidavit which this witness signed as a statement of the Prosecution. Now, to avoid all this collateral matter, just let him refer to this as an exhibit without characterizing, and we won't get into any of these collateral issues. If he has any facts he wants to establish, just let him ask the witness and not make a speech casting aspersions on anyone.

THE COMMISSIONER: You may proceed.

DR. ASCHENAUER: Mr. Commissioner, I did not make any speech; I just drew a justified conclusion. May I continue?

THE COMMISSIONER: Proceed.

BY DR. ASCHENAUER:

Q It states that Dr. Heinrich Gattineau was one of Carl Bosch's secretaries in Ludwigshafen or Leverkusen from about 1925 until 1933. Witness, was Dr. Gattineau Bosch's secretary?

A At the end of 1929 I went from the Reich Statistical Office to the Laender Bank, temporarily, and I again returned to the Reich Statistical Office in 1931 and 1932. It wasn't until the end of middle of 1932 that I again took up my final activities with the

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German Laender Bank. I do not know about the conditions in Farben
before that time.

Q. So that these are just assumptions?

A. There are assumptions. I just put it that way, but I really don't know exactly.

Q. Then, in the next sentence, it says that in 1933 Gattineau came to Ilgner. Is this also an assumption?

A. I merely know that approximately at that time Dr. Gattineau wound up in Berlin. I do not know exactly when Dr. Gattineau joined Dr. Ilgner.

Q. Witness, it is also stated in the affidavit that Gattineau had relations with the Chief of the Foreign Organization, Bohle. Do you have any specific knowledge about that? How do you know that.

A. I know from hearsay that Dr. Gattineau had acquaintances among Nazis, but I do not know whether Herr Bohle or others of the people mentioned here were actually acquaintances of Dr. Gattineau.

Q. In this connection, I now come to the Foreign Organization. From what knowledge did you testify about that?

A. I took part in the Mail Conferences of Farben, Berlin, NW-7. In these Mail Conferences the various experts in the WIFO repeatedly mentioned difficult and lengthy negotiations with the Foreign Organization.

Q. For example, what was the subject matter?

A. As far as I know, primarily it was a question of the release or dismissal of Jewish representatives abroad.

Q. If I understand you correctly, these were the difficulties which were discussed there?

A. Yes, without a doubt.

Q. So that one cannot speak of any cooperation here?

A. I didn't understand you.

Q. So that one cannot speak of any cooperation if these matters of the conference were about difficulties which existed?

A. No; of course it was not in the sense of a cooperation, but in the sense of a steady negotiation in order to comply with the wishes

of the Foreign Organization, which, of course, were not desirable to Farben.

Q. Do you know, for example, who conducted the negotiations?

A. Well, occasionally names were mentioned of people of the Foreign Organization with whom negotiations were carried on, but I no longer know them.

Q. And, if I may put it this way you don't know what position, for example, Herr Waibel or the various sales departments had?

A. Oh yes. I know that Waibel was competent for the negotiations with the Foreign Organization, that is, in the entire Farben field.

Q. In what field of negotiations did the sphere of WIPO lie?

A. As far as I know, the main fields of the WIPO were in trade matters, for example, primarily in the negotiations with the Reich Economics Ministry and the Trade Department of the Foreign Office. Beyond that, the WIPO also had to negotiate with other Reich and other agencies.

Q. In this connection may I ask you the following question:

Did the Vermittlungsstelle W not maintain contact with the Sparten in the plants, and didn't the Vermittlungsstelle W negotiate with Wehrmacht agencies?

A. I had very little knowledge about the tasks of Vermittlungsstelle W. As far as I know, its job lay in questions of industrial production of Farben, and it was to negotiate about that with the Reich agencies which were competent for that.

R. NICHAN: If Your Honors please, I understand that this redirect examination was to be limited to Exhibit 2332. There is nothing in that exhibit dealing with Vermittlungsstelle W. What defense counsel is undertaking to do now is to cover the entire field again, the entire subject matter of his cross-examination. That is very definitely outside of the scope of the cross-examination, and it is outside of the scope of this exhibit, to which the redirect examination is limited. Now, since defense counsel is trying to bring out that this witness did not himself draw the affidavit the simplest thing is to have him make his corrections now,

on the record which would be responsive redirect to that exhibit, without covering subject matter not embraced in that exhibit.

DR. ASCHENAUER: Mr. Commissioner, I may reply by saying that it is too much work for me to go through the whole field again, as the prosecutor says. I also thank the prosecutor for his advice as to how I am to conduct this examination. However, as to the matter at issue, I just want to say that my examination refers directly to a passage in Exhibit 2332. Under No. 3, "Activity of the WIPO", it says: "The WIPO was competent or responsible for all connections with reports to the Party Government, and Wehrmacht", and so on. "All." I think that is a very summary expression. Therefore, may I continue?

MR. AMERMAN: Again, there is nothing in the affidavit referring to Vermittlungsstelle W, and for the redirect examination to cover that field again is, in our view, outside of the scope and substance and contents of that affidavit.

DR. ASCHENAUER: Mr. Commissioner, the fantastic opinion of the Prosecution is that the various departments, Sparten, etc., of Farben gave all the material to the WIPO in order to maintain contact with the authorities, because otherwise I think the Prosecution would not have any interest in putting this sentence into the affidavit.

THE COMMISSIONER: Very well. Since there is a controversy here, and you have your objections and your reasons in the record, it will be up to the Tribunal to decide what weight they will give to this matter.

BY DR. ASCHENAUER:

Q. In order to be brief, I shall ask a collective question. Do you know that the Central Finance Department, the VOWI, the Legal Department, the Social Department, and the Tax Department maintained contact with the Reich authorities?

A. Yes, of course, every individual department maintained contact with the Reich Ministry which was competent for its field, or with the Reich Bank, or with other Reich agencies.

Q. Now, I also want to ask you this. Did you ever see a

political report which the WIFO sent to some Party Reich or Wehrmacht agency?

A. No, I myself saw no such report.

Q. In connection with the WIFO, when was the WIFO founded?

A. I do not know exactly. I merely know that from 1933 and 1934, on Dr. Gattineau turned up in Berlin.

Q. If I read you a passage from a transcript which says that it was in 1932, could that be correct?

A. I would have to let it go at that, because in 1932 I was not in the Laender Bank but with the Reich Statistical Office.

Q. At that point the Nazi Government was not yet in power?

A. No, certainly not.

Q. Do you have any idea when Gattineau became an honorary leader in the SA, or was appointed an honorary leader in the SA?

A. I don't know exactly. I assume that it was in 1933 or 1934.

Q. If the WFO were founded in 1932, was there any connection with Gattineau's honorary leadership in the SA, which happened in 1934, when Gattineau was appointed head of the WFO in 1932?

A. That is a judgment which I am not able to give because I have no basis to make such a judgment.

Q. Then, how do you know that Dr. Gattineau acquainted Dr. Ilgen with one of his acquaintances in the Nazi Party? Do you know, for example, with whom?

A. No, I do not know of any name. I assume that at that time in Berlin everybody introduced everybody to everybody else, so that of course the various people again introduced their friends to other people.

Q. So that this whole thing is based on an assumption by you?

A. Yes, purely an assumption.

Q. How do you know that Gattineau knew Ohlendorf?

A. I do not know that at all.

Q. How do you know that Gattineau, in 1933, renewed his membership in the Party and in the SA?

A. I do not know those individual details about Dr. Gattineau. It is purely an assumption because in Berlin it was generally known that around 1933 and 1934 Dr. Gattineau had connections with the Party or was a member of the Party.

Q. But you do not know any details of the party career of Dr. Gattineau?

A. No, I don't

MR. NEWMAN: Dr. Witness, this testimony is not getting into the record. Please watch the lights.

THE WITNESS: Yes.

DR. ASCHENAUER: Why I ask the interpreter a question?

INTERPRETER LIA: Go right ahead.

DR. ASCHENAUER: Did the question about Gattineau and Ohlendorf come through?

INTERPRETER LIA: Yes.

DR. ASCHENAUER: Then the question about whether the witness knows that in 1933 — Gattineau renewed the membership

INTERPRETER LEA: Yes, that came through, too.

BY DR. ASCHENAUER:

Q. Then the question is: Did you have any detailed knowledge about the Party career of Gattineau?

A. No.

Q. And you do not know about the Roehm Putsch in 1934, about that matter?

A. Yes, I do know about the Roehm Putsch and likewise I know that Dr. Gattineau had a lot of difficulties then.

Q. Do you have any knowledge about the Bund Oberland which is mentioned in your affidavit?

A. No, I have no knowledge about the Bund Oberland. I merely know, by rumor, that during his student days Gattineau is alleged to have belonged to this band. Whether this is a fact, I do not know.

Q. Do you know anything about Oberland having been dissolved in 1933?

A. I know that Oberland was dissolved in 1933.

Q. And about press attacks on the Oberland from the Party, you do not know anything?

A. No, I do not know.

Q. Then, Witness, you talked about Party connections. It is only an assumption, if I understand you correctly, on your part if you stated that Gattineau joined the Party in 1921 or 1922.

A. These are rumors which were circulating in Berlin 1937-7. Since I did not know Gattineau at that time, it is completely unknown to me whether this is correct or not.

Q. Then the renewal of the Party membership is also an assumption?

A. Yes, purely an assumption.

Q. Then how do you know that Gattineau left the WIPO at the end of 1937?

A. As far as I recall, Dr. Gattineau before the time that I left for the Far East left Berlin and accepted a new position in Austria or Slovakia.

Q. Do you know why Gattineau left Berlin?

A. No, I do not know the motives at all.

Q. Then I want to ask you about a passage on the next-to-the-last page of the affidavit. It says here, in connection with reports of the Verbindungsmann: "This report was probably passed on to the Vorstand and to the government agencies which were interested. For example, the Wehrmacht, probably counterintelligence, Major Bloch. It can be assumed that reports also went to the Reich Ministry of Economics and probably also to the Foreign Organization. These reports contained information about economic and political questions. I myself never saw one of these periodic reports of the WFO." Now, Witness, what do you have to say about that?

A. I would like to refer to the last two sentences. Since I myself never saw any of these periodic reports of the WFO, I cannot know that economic and political questions were contained in them. Yesterday, I pointed out briefly that here a substantial error occurred, that it was left in there, and that the monthly reports of the WFO to the KA are made up of information of the Reich Ministry of Economics itself and therefore it is an intermediary step, the WFO is an intermediary step for the Reich Ministry of Economics. It was an intermediary step in passing on this information. Correction: That its passing on such information to other Reich agencies is hardly probable. That its passing on such information to other Reich agencies is hardly probable. There is evidently a confusion here between the reports of the WFO to the KA and the reports of the I.G. Verbindungsmann.

DR. ASCHENBACH: Thank you, I have no further questions.

THE COMMISSIONER: At this time we will take -- About how long will you be, Doctor?

DR. HOFFMANN: Only ten minutes, Your Honor.

THE COMMISSIONER: Very well. We will finish here.

BY DR. HOFFMANN (for von der Heyde):

Q. Mr. Reithinger, I just want to ask you a few things. I am concerned about one sentence on page 3 of your affidavit. Document HI-3763. My client von der Heyde is also mentioned there. I shall quote the sentence. -- oh, I must correct myself, I want to quote both sentences. You speak there of Mr. Gattineau and then the following ensues, and I quote: "His" -- that is Gattineau's -- "constant efforts as well as later those of the counterintelligence official for NJ-7, of the SS Lieutenant and SD man von der Heyde (who worked on OKW and IS matters in the WIFO) to expand WIFO's competence to include WVH, caused much friction between the two departments. It went so far that in 1934 or 1935 I offered my resignation to the Vorstand in Frankfurt." Only one question. Do you know when Mr. von der Heyde came to Berlin?

A. I do not know the exact date. I know that von der Heyde originally worked in Luchfigshafen, that then he went to Berlin in order to take over an agricultural department in the WIFO, and that later he was concerned with questions of draft deferment, of supervision and of secrecy during war and other matters.

Q. That is very nice, Witness. But you can't remember when he went to Berlin.

A. No, I cannot give you the exact date.

Q. All right. Now, if I tell you that he went to Berlin in 1936, would you then say that your statements, as far as I quoted them, as a result of your ignorance of the arrival of von der Heyde in Berlin, are incorrect?

A. No, not in this case. Because I only described that later von der Heyde's activity as far as it was concerned with WVH, gave cause for certain friction.

Q. Witness, you are a German, aren't you?

A. Yes.

Q. Then I must ask you to read the sentence once more. Then you will find that you first write that Gattineau's activity and later von der Heyde's activity led to something and then later you say, in the next sentence, "It went so far that in 1934 or 1935 I tendered my resignation to the Vorstand in Frankfurt."

A. This of course refers only to the friction at that time with Dr. Gattineau.

Q. How did you come to phrase it in such a way that you simultaneously include von der Heyde in the sentence and therefore it makes it appear as if von der Heyde too was responsible for the fact that you tendered your resignation in 1934 or 1935?

A. This is an error. First of all, I did not phrase this thing and secondly I assumed that through the word "later" it would be made clear that the following sentence does not necessarily refer to von der Heyde. Furthermore, I think that these internal frictions and disputes are of no importance at all for this trial.

Q. Do you mean to say that apart from possible personal disputes which you had with various individuals you make no reproaches against von der Heyde in the sense expected by the prosecution here?

A. Yes, I agree with you completely.

Q. Tell me, witness, do you know what an SS Lieutenant is?

A. No, the expression is very vague because as far as I know in the SS there was a rank similar to lieutenant but it was called something else.

Q. Could you say anything about von der Heyde's relations with the SS?

A. No, I know nothing about that personally.

DR. HOFFMANN: Then I have no further questions, Witness.

BY MR. BACHM:

Q. Dr. Reithinger, two or three questions. You say, on page 2 of your affidavit, at the bottom, that Dr. Ilgner maintained or started connected with influential and prominent people in the government and in the Party of whom he thought that they would have great influence or that they would be powerful. Can you give me examples to substantiate this claim?

A. No, I cannot give any individual examples, but I think that the following phrasing would be correct: That Dr. Ilgner in developing his career in Berlin maintained contact with as many important as possible in Germany and abroad, that he tried to establish contact with such people, and that he tried to get to know these people in so far as he believed that they were important people or that they would become such. This refers equally to personalities in the government or in private industry.

Q. And in what connection did Dr. Ilgner try to establish contact with such personalities, in your opinion?

A. In my opinion, this was a natural result of his position.

Q. His position where?

A. His position in Farben.

Q. Then you say on the next page of your affidavit, "He knew Gauleiter Bohle of the Foreign Organization." Do you know this positively?

A. Yes, I know positively that Dr. Ilgner very late in 1942 or 1943 must have seen Gauleiter Bohle once.

Q. In what connection?

A. I think in connection with an invitation which Reichsbank President Funk issued; and I know that Dr. Ilgner was invited and Mr. Bohle was invited too.

Q. Then you say that Dr. Ilgner knew most of the members of Dr. Bohle's staff. Can you give me the names?

A. In this form, this is not completely correct without a doubt.

Dr. Ilgner must have known several people because as far as I know he once had a very serious dispute, not to say a very serious conflict with Mr. Bohle which had to be mediated somehow, but I do not know any details about it.

Q. Therefore you cannot say positively whether, outside of Mr. Bohle, he knew other people from the Foreign Organization.

A. No, at least I cannot give any names.

Q. Furthermore, you say in the same connection that he knew Ohlendorf, the Chief of the SD Inland. Do you know when Dr. Ilgner got to know Mr. Ohlendorf?

A. I must beg your pardon for a moment. What I said before referred to Ohlendorf. I think you said Bohle. As far as I know, at an invitation at one time Dr. Ilgner met Mr. Ohlendorf, at least they were both invited to a big evening affair of the Reichsbank. Not with Mr. Bohle. If Bohle was mentioned before, I must correct that.

Q. In order to make it clear once more, I want to ask about Mr. Bohle. You say that he knew Mr. Bohle.

A. I do not know this at all. I assume that since he once had a very serious dispute with him, which became known around MW-7, he must have therefore known him personally, but this is purely a conclusion.

Q. Then you say that Dr. Ilgner knew most of the members of his staff. I assume that this refers to Mr. Bohle. Do you know this positively?

A. I have already answered that before.

Q. And in what sense? Just to make it clear.

A. In the sense that I do not know any names, but merely that I assumed it from his position and from his many difficult negotiations which Farben had to conduct with the Foreign Organization because of its foreign representatives and its exports. Dr. Ilgner therefore must have known some of these people, considering the position he held.

Q. But this is purely an assumption?

A. Yes, purely a conclusion.

Q. Now I come to Mr. Ohlendorf, of whom you say that he also knew him. I asked you whether you know when Dr. Ilgner got to know Mr. Ohlendorf?

A. About this I know that in 1942 or 1943 or at any rate around this time, an invitation of the Reichsbank to a dinner was issued, at which Dr. Ilgner as well as Mr. Ohlendorf were guests.

Q. Dr. Reithinger, would you agree with me if I told you that this gathering was in August 1944?

A. I consider it altogether possible. It might have been 1944.

Q. You do not know it positively?

A. No, I do not. Such things were completely unimportant for us.

Q. Do you know that Mr. Ohlendorf was at that time an official of the Reich Economic Ministry?

A. Yes, I know that he did have a position in the Reich Economics Ministry.

DR. BACHEM: Thank you, I have no further questions.

MR. AMCHAN: Just two minutes, Your Honor.

CROSS EXAMINATION

BY MR. AMCHAN:

Q. Mr. Witness, the cross examination was concluded yesterday afternoon. Now, from that time until today when you resumed the stand, did you confer with defense counsel?

A. Yes, the defense weeks ago showed me some documents from which it can be gathered that the actual facts are different from some of those which are contained in the affidavit; than some of the assumptions stated in the affidavit.

Q. Did they show those documents between the conclusion of your cross examination yesterday and this morning when you took the Stand? Is that when they showed it to you?

A. Yes, yesterday too I saw some such documents.

Q. That is after your cross examination?

A. Yes.

MR. AMCHAN: No further questions.

REDIRECT EXAMINATION

BY DR. HOFFMANN:

Q. Witness, did you ever before, or between your cross-examination and this morning, discuss anything with me?

A. No, I did not speak to you.

Q. Did anyone approach you and say to you that he was speaking with you as my representative?

A. No.

Q. Thus you had no contact with me?

A. No, I have not had any contact with you.

Q. You know, Witness, that I saw you yesterday before the beginning of your examination and that we didn't even exchange a word; is that correct?

A. That is correct. I saw you yesterday for the first time, consciously.

Q. Nevertheless, Witness, you answered my questions, you had to give those answers which you gave me today?

A. I can only give those answers which correspond to the truth.

Q. Would you say, then, that the conferring or not conferring with you had no influence on the testimony you just made?

MR. AMCHAN: That is objected to as calling for a conclusion. It is objected to on the further ground that this particular counsel, Dr. Hoffmann, was only inquiring about his own conferences with the witness, and he said he had no conferences with Dr. Hoffmann. Now, for him to inquire as to the conclusions about the witness' conferences with other defense counsel is of course out of line.

THE COMMISSIONER: It seems we are just wasting time now, and as you stated that neither you nor any one for you consulted with him, that exonerates you and places the proper light on your evidence.

DR. HOFFMANN: Yes, Your Honor, I do not want to have my colleague

exonerated, but I wanted to have this question answered.

THE COMMISSIONER: Go ahead. Proceed.

MR. HOFFMANN: And since the objection is in the record, well, the witness may answer then.

THE COMMISSIONER: Yes.

Q. I asked you, witness, whether in your opinion the fact that you conferred or had not conferred had any influence on your present testimony or not?

A. In my opinion, this was completely unimportant because I can only testify to that which I know exactly and which I can answer for.

DR. HOFFMANN: One moment, please. Then I have no further questions.

DR. ASCHELAUER: I have no question of the witness but I have a question to the prosecution. I want to ask the prosecution whether the prosecution is clear about the fact that this is a defense cross examination. Further, I want to ask the prosecution why it wanted to have all the other questions treated in the redirect yesterday; and, thirdly, I want to ask the prosecution whether the prosecution does not know about the suggestion of Judge Shake that in order to save time one can for this reason, on the part of the defense in such a case of cross examination, talk to the witness after the cross examination. These three questions are the ones I want to ask the prosecution. Then the case is closed as far as I am concerned.

MR. ANCHAN: We will let the defense counsel's rhetorical questions stand on the record and the record will speak for itself. We are through with this witness.

THE COMMISSIONER: The witness may be excused. The Commission will take a few minutes recess.

(A recess was taken.)

DR. MUELLER: Mr. Commissioner, in agreement with the Prosecution, I would like to ask first that this afternoon's session, in view of the submission of the rebuttal documents in open court, not start at 1:30, but at 2:30, so that defense counsel might be present in open court when the rebuttal documents are presented. We have discussed with the Prosecution that in view of the postponements which have occurred, the witness Godow, who was scheduled for yesterday, not be cross-examined until Monday, at 1:30, and for that day, it might be arranged that Dr. Ilgner may be present during that examination.

MR. AMCHAN: Defense Counsel is entirely correct in stating that, with your Honor's permission, we would like to have the proceedings start at 2:30 today instead of 1:30 so that they can be present in open court when the rebuttal documents are presented.

THE COMMISSIONER: That will be satisfactory, and when we recess, it will be until 2:30. Until 2:30 today.

We have a witness now ready?

DR. GIERLICH: The witness, Dr. Rudolf Schmidt, is present to be cross examined, and is ready to take the oath.

THE COMMISSIONER: The witness will raise his right hand, and repeat after me:

I swear by God the Almighty and Omniscient, that I will speak the pure truth, will omit and add nothing.

THE WITNESS: I swear by God the Almighty and Omniscient, that I will speak the pure truth, will omit and add nothing.

THE COMMISSIONER: You may be seated.

DIRECT EXAMINATION

BY DR. GIERLICH (for Geheimrat Schmitz):

Q Dr. Schmidt, may I ask you first to state your full name and your present address for the record?

A Rudolf Schmidt, Cologne-Marienburg, von Goethe Strasse 36.

Q Dr. Schmidt, in connection with the DAG complex, you made out a number of affidavits. The Prosecution wishes to cross examine you

about two of these affidavits. They are first, your affidavit of 3 December 1947, concerning the relations between the Sparte III of I.G. and the business management of DAG. This is the DAG Document # 2, Defense exhibit # 2. Do you have that affidavit in front of you?

A Yes.

Q Have you discussed that affidavit during the last few days?

A Yes, I discussed it.

Q Do you wish to add anything or change anything in that affidavit?

A No, nothing in affidavit 2.

Q The second affidavit, about which the Prosecution wishes to cross examine you, is your affidavit of 1 December 1947, about the extent of informing I.G. Farben about the business of the DAG. This is DAG Document 7, Defense exhibit 7. Do you wish to add anything or change anything in this affidavit which you also discussed with me?

A Concerning this affidavit, I wish to make a statement. I want to answer how the DAG informed I.G. Farben and the Aufsichtsrat as far as informing I.G. Farben was concerned. I discussed this in the first paragraph on page two. As far as the Aufsichtsrat is concerned, I would like to correct something in my statement.

I said here that we used the opportunity to discontinue our quarterly reports. That is correct insofar as it concerns the entire Aufsichtsrat, in particular the individual members of the Aufsichtsrat. According to the law, it was our duty to give a detailed quarterly business report to each member of the Aufsichtsrat insofar as an Aufsichtsrat meeting took place. We discontinued these quarterly reports, that is correct. I forgot to mention in my affidavit that we continued to send our quarterly reports which were kept quite brief, for several more years to the Chairman of the Aufsichtsrat. At the time, the Chairman was — and had been for decades — a Mr. Max von Schinkel in Hamburg. As I am now informed this was done until 1938.

Q For the record, I would like to clarify that the witness talked

about quarterly reports which are to be translated quarterly reports and not three-monthly reports.

Would you please repeat the last sentence?

A We discontinued these quarterly reports to the individual members of the Aufsichtsrat.

Q About what time was that?

A But we continued to send them to the Chairman of the Aufsichtsrat, who was Max von Schinkel at the time, but with the proviso that he was getting them for his personal use, and was not to hand them on to the other members. When Geheimrat Schmitz, in 1938, became chairman, we gave him that report once and we told him how we handled this matter in the Aufsichtsrat. We asked him too not to hand on these reports. As far as I know only very brief reports were then made about turnover figures and numbers of employees. It is correct, then that the Aufsichtsrat as a whole received reports only during the yearly Aufsichtsrat meetings. If I spoke later about a report which I am supposed to have given to Geheimrat Schmitz personally, this was the report of the examination by the Chemierevision and Treuhand which, according to the law, had to be submitted to the Aufsichtsrat. This report was always a fairly thick booklet, and I put some documents into it for Geheimrat Schmitz, some sentences of this report for him to read. These were only very few sentences, and they referred only to the fact that the Chemie confirmed to us that our bookkeeping was in good order; and that they could certify that they had checked us and everything was in good order. Then Geheimrat Schmitz put this report in front of him on the table, and it remained there until we took it away. I have nothing further to add to this affidavit.

Q Dr. Schmitz, I would like to ask you in particular, whether I understand the contents of your report correctly, reading: You ceased to give quarterly reports to the Aufsichtsrat in 1935 and from that time onwards, you handed these reports to the chairman of the Aufsichtsrat only?

A Yes.

Q Requesting him not to show it to the other members of the Aufsichtsrat?

A Yes.

Q Until the year of 1938, Herr Max von Schinkel was the chairman of the Aufsichtsrat?

A Yes.

Q Did Herr von Schinkel have any connection with I.G. Farben?

A No, I do not know whether Herr von Schinkel was in the Aufsichtsrat of Farben, after we had made our agreement based on common interests. He may have been, but I don't know. He did not come from Farben and he had nothing to do with Farben.

Q Thank you. When Geheimrat Schmitz had become Chairman of the Aufsichtsrat, after von Schinkel left, did he receive a quarterly report once more, in the manner customary until then, you called it a very brief report, and after that he received a report which referred merely to the turn-over figures and the employees. Did I understand you correctly?

A Yes.

DR. GIERLICH: Then I have no further questions to the witness, and I yield him to the Prosecution for cross examination.

CROSS EXAMINATION

BY MR. AMCHAN:

Q Mr. Witness, during what period of time were you a member of the Vorstand of Dynamit A.G.?

A From 1 April 1915 until 16 June 1946.

Q What was your special field of activity in Dynamit A.G.?

A Our Vorstand consisted of three members. Firstly Dr. Mueller, who was a chemist, then originally we had a businessman, and I came into the Vorstand merely as a lawyer. That was in the years 1915 when we were still in Hamburg. There we had Geheimrat Aufschlaeger as Chemist in the Vorstand and General Konsul Richter as businessman,

and Berkemeyer also as businessman. I was called merely as a lawyer and I remained there as a legal expert right to the end.

Q So you were the lawyer on the Vorstand of Dynamit A.G. during your entire period of service, is that right?

A I was there as a legal expert, but my sphere of work went beyond that, owing to the fact that the entire previous training of the Vorstand members varied, without any actual plan we automatically distributed the work accordingly. Anything that had to do with manufacturing, factories, and similar matters, anything in the chemical field, was the special field of Dr. Mueller. Anything concerning contracts, real estate, tax, personnel questions, and in particular, keeping records and documents of the Aufsichtsrat and General meetings, the observation of our affiliated companies, the explosives Syndicate, agreements, all of that was my field.

Q Your field as the legal advisor, is that right?

A What did you say?

Q I said, your field as legal advisor?

A As member of the Vorstand. I was a member of the Vorstand with previous legal training.

Q But, did I understand you, when you described the various subject-matters and fields of activity that you dealt with, that you dealt with that as to the legal and administrative aspects? The administrative aspects from the legal point of view, is that correct?

A I handled them in my capacity as a Vorstand member and I had been called to do this in particular because I had had legal training.

Q I am still not quite clear, Mr. Witness. Do you refer to the various matters that you dealt with in Hamburg in Dynamit A.G., the various tie-ups between Dynamit A.G. in the company personal and other matters. Now, when you looked after those matters, did the nature of your work, in looking after those matters, were those legal matters that you were looking after in that connection of a business legal nature?

A Of course, they were all matters which had to be handled by a member of the Vorstand. We were only three members in the Vorstand,

but owing to my previous legal training, it seemed obvious that I would naturally deal with these administrative jobs. I acted as a member of the Vorstand.

Q Now, you testified a moment ago, on your direct examination, that you conferred with Dr. Gierlichs with respect to the affidavits, and you particularly undertook to make changes and additions and corrections with respect to your affidavit DAG Document 7. Did I correctly understand that to be the situation?

A I did not make these corrections at the suggestion of Mr. Gierlichs, but when I was called here, of course I read through all my affidavits once more, and I know from Troisdorf, because I am still working there now, that a letter was picked up which coincided with this information, and I saw from this that we still gave reports to the Chairman. I would have made that statement on my own.

Q Well, to be sure that I understand you, is it your testimony that while you were at Troisdorf, when you learned that the Prosecution found certain letters, you had knowledge then that the Prosecution found those letters, and after having obtained that knowledge, you yourself voluntarily undertook to make additions to your affidavit DAG number 7. Now, is that a fair statement of the situation?

A Yes.

Q Now, in your affidavit DAG Document 2, you refer to a conversation which Dr. Mueller had at Bosch's home in Heidelberg, and you say Bosch told Mueller that Gajewski was not Mueller's superior.

A Yes.

Q Now, do I correctly understand that you yourself were not present at that conversation?

A I was not present.

Q And do I correctly understand your testimony to be that you learned about that conversation from Dr. Paul Mueller, is that right?

A Yes.

Q Where is Dr. Paul Mueller now?

A He is dead.

Q Now, could you fix the time of that conversation? When did it take place?

A I cannot give the time. If I try to find the reason for the conversation, it must have been in the spring or early summer of 1927, but perhaps even in winter. Our agreement to affiliate with I.G. originated from August, September, 1926. At the time, we got accustomed to that relationship, and the discussion had been caused by differences between Dr. Mueller and Gajewski. I know at the beginning, it had been said, that we should contact Dr. Kuehne who was in Leverkusen, since we in Troisdorf and Cologne were close to Leverkusen, and sometime later the conversation took place, it might only have been after the Sparten were formed and Dr. Gajewski became chief of a Sparte. It was shortly after Dr. Gajewski had tried to interfere in our business somewhere or other immediately after the conversation, Dr. Mueller told me about it and again later on on many occasions he repeated the conversation to me verbally in his usually lively way.

Q Now, if you please note in your affidavit DAG # 2, you fix 1929 as the date when the Sparte set-up occurred.

A Yes.

Q Now, does that help you to fix more exactly the time when this conversation between Dr. Mueller and Geheimrat Bosch occurred?

A Now, that I read it through again, I think this conversation must have taken place after the Sparten had been set-up because it had been agreed that we were assigned to Sparte III. At any rate, this is about twenty or eighteen years ago, and I really don't know it by heart.

Q I am trying to get your best recollection, and am asking whether the date 1929 is helpful to you in trying to fix the time when this conversation, as you say, occurred. Was it a year after, two years after? How long after the setting up of the Sparten?

A I assume a few months after the Sparten were set up.

Q Then 1939 is a fair estimate of the time, is that right?

A Yes.

Q When I say 1939, I mean 1929.

A Yes, 1929.

Q Were any written orders issued by Farbon, setting down the respective spheres of authority of Gajewski and Dr. Mueller?

A No.

Q So do I correctly understand that the fields of authority respectively, between Gajewski and Dr. Mueller, were based entirely upon the oral directive, as you say, which Geheimrat Bosch made at that conversation or conference in 1929?

A This is just the point. This conversation, insofar as it concerns the reason for the meeting was conducted with very few words. When the two gentlemen came to Bosch, Dr. Mueller first put the question and he told me that repeatedly, he asked, "Is Dr. Gajewski my superior?" Geheimrat Bosch only answered "No". After that Dr. Mueller only said: in that case, we need not discuss it any further. I shall settle everything else with Dr. Gajewski alone, and thus the entire conversation, was completely concluded and finished, insofar as it concerned the purpose of the meeting. Some technical questions might have been discussed, but competence between Gajewski and Mueller was no longer discussed. Dr. Mueller told me that repeatedly.

Q Yes, I understood that, Mr. Witness, you stated that in your affidavit. But my question, Mr. Witness, is, is that the source of authority from which you say the different fields of authority and jurisdiction between Gajewski and Dr. Mueller were fixed? Do you understand my question?

A Whether the authority between these two gentlemen were fixed, - well, nothing was laid down, orally, as far as I know. I only knew that Dr. Mueller alone was competent for the D.A.G.

Q I am asking you about the respective authorities of Dr.

Mueller and Dr. Gajewski, and I am asking you whether the line of demarkation between the authority of Gajewski and Mueller find their source from this conversation between Bosch, Mueller, and Gajewski in 1929?

A Yes. With that discussion the entire conflict of authority had been settled.

MR. AMCHAN: O.K.

THE COMMISSIONER: This might be a good breaking point. We have only a few minutes more, so we will recess until 2:30. 2:30 today.

(A recess was taken.)

AFTERNOON SESSION

(The hearing reconvened at 1430 hours, 30 April 1948)

THE MARSHAL: The Commission for Tribunal VI is now in session.

CROSS EXAMINATION

BY MR. ALCHANI:

Q. Mr. Witness, before the recess you were discussing the conference of 1929 between Bosch, Gajewski, and Dr. Mueller. Now isn't it a fact that the arrangement made at that conference about which you testified depended upon the pleasure of Bosch and the Vorstand of I. G. Farben, isn't that the fact?

A. The agreement in Heidelberg had been made by Bosch. Bosch was in the Vorstand of Farben. I don't know; of course that was the agreement between Farben and Dr. Mueller.

Q. But the respective authorities which you say Bosch laid out between Gajewski and Dr. Mueller, that was wholly dependent upon the pleasure of Bosch, isn't that so?

A. Yes.

Q. Now do I understand your testimony to be that after this conference of 1929 between Bosch, Mueller and Gajewski, Farben exercised no influence in the business affairs of Dynamit, A.G.? Is that your testimony?

A. That Farben had no influence? No, of course not. That only referred to the business management within the DAG itself. That shouldn't mean that Farben had no influence on the business management of the DAG.

Q. Do I correctly understand your testimony that even after this agreement in 1929 which you mentioned, Farben still exercised influence in the business affairs of Dynamit, A.G.? Is that a fair statement of your testimony?

A. Yes.

Q. Now after this agreement in 1929 that you mentioned and when I say "agreement," I always mean this conference in 1929, that is what I am referring to, in Heidelberg. Now after this conference in Heidelberg, did Dynamit A.G. have a free hand with respect to conducting its business, or

did it have to get the approval of Farben in certain important matters?

A. Of course, it did not have complete freedom to conduct its business affairs the way it considered it correct, it referred only to the conduct of the business affairs and the relationship between Farben and DAG was put in order by the community of interests agreement. Of course, this agreement existed.

The agreement in Heidelberg merely said that the business management of the DAG were only supposed to be conducted within the framework of the community of interests agreement.

Q. Now if Dynamit A.G. wanted to transfer a factory, say, for instance a factory for the manufacture of electric fuse wires, did it have to obtain the approval of Gajewski of I.G. Farben to do that, or could it do it without his approval?

A. To sell the factory you mean?

Q. To transfer the factory.

A. What do you mean by "transfer"? Does that mean to sell it or to move it? If we wanted to move a whole plant from one place to another place, we would have had to buy real estate, and in order to do that we had to ask first. If we wanted to move one department of the plant to another place in the plant, then we did not ask. Of course, it depends on the size.

Q. All right. Now let me show you Prosecution Exhibit 2155, NI-11097. This is a letter addressed to Dynamit A.G. in February 1934, copy of which went to Dr. Gajewski of Farben. Now will you please look at the document and tell me whether or not that refreshes your recollection that in 1934 Dynamit A.G. had to get the approval of Gajewski in order to be able to transfer the electric fuse wire factory. Does that document refresh your recollection for that purpose?

A. Well, this is an application.

Q. Do you understand my question, Mr. Witness?

A. Yes. This is a letter to the DAG and there must have been an application from us before that about the approval for the expenditures

which would be caused by moving this plant for electric fuses. These costs we had to apply for from the Tea and here it was confirmed to us that Dr. Gajowski approved of the fact that those expenditures would be granted. This refers to the factory of electric fuse wires which was within our general area in Troisdorf. It was part of the plastic factory and was moved into the fuse factory. This was within this Tea approval about the approval of expenditures for plants.

Q. Just a minute, witness, please. This document that you have, Exhibit 2155, III-114097, will you please look at the photostatic copy of that document and tell me what date is on that document?

A. The 5th of February 1934.

Q. All right. Now, Mr. Witness, when Dynamit A.G. wanted to construct a new plant, did it have to get the approval of Farben or could it do it on its own without Farben's approval?

A To build a new plant? For that it had to ask first.

Q Now in 1937, if Dynamit A.G. wanted to construct the plant for the production of formaldehyde, did it have to apply to Farben for permission to construct such a plant, or could it do it without securing Farben's permission?

A In 1937, we didn't build any plant for formaldehyde.

Q Now I show you Prosecution Exhibit 2157, which is NI-15164, and I ask you whether or not that document which is the minutes of the meeting of the chemical committee of Farben in April 1937, does that document refresh your recollection that the reason why you could not build ... Does that document, the minutes of the meeting of the chemical committee of Farben on 17 April 1937 —

A 1937?

Q That is right. Now one moment and wait for the question. Does that document refresh your recollection that the reason why Dynamit A.G. did not build a formaldehyde plant in 1937 was because Farben turned down the request of Dynamit A.G. to construct such a plant? Does this document refresh your recollection to that extent?

A No, because, I don't know that we wanted to build a formaldehyde plant.

Q Do you see in the document this sentence. "The chemical committee accede to the wish of Troisdorf to set up the plant for formaldehyde as the reasons for setting up the Leverkusen factory are incomparably more important." Do you see that sentence?

A Yes.

Q Now the Troisdorf mentioned there, does that refer to Dynamit A.G.?

A Yes. This says that DAG wanted to build a plant not a factory — a plant for formaldehyde in Troisdorf — and evidently in Leverkusen one was also constructed and one rightly said why there should be plants at both places. Therefore, there shouldn't be one at Troisdorf.

I know nothing about it personally. I don't know whether I ever know that we wanted to or intended to construct this plant because I had nothing to do with the manufacture.

Q. Was it not a fact that Dynamit A.G. had to submit its applications for credits to Farben's Tea? Isn't that a fact?

A. To hand in the credits to Tea? Yes.

Q. And is it not the fact that as late as 1934, Dynamit A.G. would submit its credit applications to Gajewski for transmittal to the Tea or for presentation to the Tea? That is correct, is it not?

A. Yes.

Q. And is it not a fact that Gajewski as late as 1934 would regularly inform Dr. Mueller of Dynamit A.G. of the action of the Tea with respect to the approval or disapproval of its credit applications? Isn't that so?

A. Dr. Mueller was himself in the Tea. Therefore Dr. Gajewski did not need to inform him as to what was going on in the Tea because Dr. Mueller was present himself.

Q. I show you, Mr. Witness, Document WI-114096 which we offer in evidence as Prosecution Exhibit 2338. That is a letter of 11 April 1934 from the defendant Gajewski to General Director of Treisdorf. Now, Mr. witness, does this document refresh your recollection that the defendant Gajewski at the time referred to in this document April 1934 presented the credit applications of Dynamit A.G. Tea and then informed Dr. Mueller of the action taken by the Tea? Does this document refresh your recollection for that purpose? Does it or does it not?

A. This has nothing to do with Tea—this letter. This is a bookkeeping matter, a copy of the bookkeeping accounts and sales and purchasing figures. This has nothing to do with Tea.

Q. What does the allocation of 302,000 marks for Treisdorf refer to?

A. This is a credit of 302,000 marks. This is not money which we received, but we just wrote off 302,000 marks for some purpose. This is a bookkeeping matter.

This is not a credit.

Q Are you familiar with the transaction referred to in this document?

A You mean am I familiar with what is concerned here the amount written off? No, I don't know anything about it. This is a very small amount: 300,000 marks.

Q If you say you don't know a thing about it, there is nothing you can tell us about it. Could we just let Dr. Hoffmann make his announcement?

MR. ROYLAND (for the defendant Labros): Your Honor, according to the plan or the schedule, the next witness would be Dr. Alt. After conferring with the prosecution and with Dr. Gierlich, I don't think that it will be possible for Dr. Alt. to be examined here today. Therefore I ask that he and I be excused today because we have a lot of pressing work to do for the defense.

MR. AMORAN: That is agreeable to the prosecution and we will fix a day certain for the examination of that witness.

THE PRESIDENT: The agreement is accepted.

BY MR. AMORAN:

Q Now Mr. Witness, you mentioned the fact that Dr. Mueller of Dynamit A.G. himself presented the credit applications to the Tea, is that right?

A We submitted them via Sparte III, but then he himself represented them in the Tea in Frankfurt. He gave the reasons for them because he was a member of the Tea.

Q Dr. Mueller?

A Dr. Mueller, yes.

Q Now, isn't it a fact that the only reason why Dr. Mueller presented the Dynamit A.G. applications to the Tea himself was because Farben and Gajewski thought it would be simpler as an administrative matter to have him personally presented to the Tea rather than through Sparte III? Isn't that the fact?

A I must confess I didn't understand the question.

Q Would you please listen and I will repeat it slowly for you. Is it not the fact that the reason why Dr. Mueller presented the credit applications of Dynasit A.G. Tea himself rather than through Sparte III, isn't the reason due to the fact that Farben and Gajewski thought that it would be simpler as a matter of administration to have Dr. Mueller present it personally to the Tea rather than through Sparte III? Now do you understand my question?

A Yes. It wasn't that Dr. Mueller personally submitted the credits to the Tea; it wasn't like that. The DAG submitted the credits via Sparte III to Tea. That was a few weeks before the session. If the Tea session then sat, for example, in Frankfurt, Dr. Mueller would drive to Frankfurt for the session and if then discussions were held in the Tea as to whether the credit was necessary as to whether the funds should be expended by us, then Dr. Mueller personally defended this application. In other words, he did not submit them personally but he defended them; he gave reasons for them personally in the Tea. They were submitted by the DAG.

Q. My question is, isn't it a fact that the reason why he, as a representative of the DAG, submitted these things to the TEA was because Gajewski, in Article III, permitted him to do it in the interest of simpler administration? Isn't that the fact, that Gajewski authorized and permitted him to present those applications himself on behalf of Dynamit AG? Is that the fact or is it not?

A. Well, after Dr. Mueller-- Well, whatever was discussed between those two gentlemen, I don't know. However, it was obvious that if Dr. Mueller was sitting in at the TEA around the table where all these people were sitting, and the application of Troisdorf was discussed, then, of course, not Dr. Gajewski but Dr. Mueller would say why this credit or why this expenditure was necessary. That was obvious from the fact that he, as a member of the TEA, was sitting in at the TEA.

Q. Well, I show you Prosecution Exhibit 2156, which is NI-14099. Now, that is a letter of 28 March 1934 from Gajewski to Director General Paul Mueller of Troisdorf. Is that right?

A. Yes.

Q. Now, do you note, at the beginning of the second paragraph Gajewski stating, I am quoting: "In your absence I had a telephone conversation with Dr. Mueller, and we arranged that in the future you should submit the credits required for your plants, because I shall not be able, in the near future, to acquaint myself with the matter sufficiently." And so on. Now, my question to you, Mr. witness, is Does this document, the letter from Gajewski to Mueller, refresh your recollection that the reason why Mueller was permitted to present the Dynamit AG credit applications before the TEA was not because Mueller had authority to do it in his own right, but only because Gajewski authorized him to make those applications to the TEA? Do you understand my question, Mr. Witness?

A. Yes, Well, I cannot remember this letter. It states here that Dr. Gajewski telephoned me, and certainly that is correct.

Q. Does it refresh your recollection for the purpose I mentioned?

A. Well, this is an agreement between Dr. Gajewski and Dr. Mueller to the effect that Dr. Mueller should be the representative in making credit applications himself, because he would not be able to do so. Of course, Dr. Gajewski was director of the Sparte, and we belonged to it in the organization, therefore, it was obvious that Dr. Gajewski would give the reasons. However, practically speaking, it was always Dr. Mueller who gave the reasons, because he was present.

A. I just want to add this.

Q. Mr. Witness, please keep the question in mind. The question is, does that document refresh your recollection as to the reason why Dr. Mueller was permitted to make those applications in person, rather than through Sparte III, to the TEA? Just keep the question in mind, please.

A. I don't know.

Q. You mean the document does not refresh your recollection of it does?

A. I cannot do anything more than say what I did.

Q. All right. Now —

A. A condition was supposed to be legally established the way it had already practically developed, that Dr. Mueller should represent his own matters personally. That is, in the future he would do it himself.

Q. All right. Now, then, was there technical collaboration between Dynamit AG and Sparte III? Can you answer that yes or no? Did you understand the question?

A. No.

Q. I will repeat. Was there technical collaboration or collaboration as to technical matters between Sparte III of Farben and Dynamit AG?

A. Yes.

Q. There is no doubt about that in your mind, is there?

A. No.

Q. Can you give me the period of time you are talking about?

A. The whole time.

Q. Now I want to be sure --

A. Technical cooperation between Sparte III and us? I had nothing to do with technical matters, but in my opinion that always existed.

Q. Well, let me see if I can, in addition; refresh your recollection. I show you document NI-13534, which we offer as Prosecution Exhibit 2339. It is a letter dated 20 February 1945, from I.G. Farben --

A. 1945?

Q. 20 February 1945. It is addressed by Sparte III of I.G. Farben. A copy of it goes to Gajewski. It is addressed to the Gau Economic Chamber. Now, I am calling your attention to paragraph 3, on the first page, which reads:

"Furthermore, the connection between Wolfen and the explosives concern of Dynamit-Nobel, A.G., to which further numerous plants belong, must be maintained, especially from the technical standpoint."

Now, Mr. Witness, does this document further refresh your recollection that even as late as 1945 the technical collaboration between Dynamit A.G. and Sparte III of Farben continued uninterrupted? Does this document refresh your recollection for that purpose?

A. Yes.

Q. Now, have you got your affidavit, DAG document No. 7, before you?

A. Yes.

Q. Now, on page 2 of that document you state that I.G. was naturally interested as a result of the working agreement--and I assume you are referring to the working agreement between Farben and Dynamit AG of 1926. Do you see that?

A. On page 2, you mean?

Q. That is right. The sentence begins: "On the other hand, IG was naturally interested as a result of the working agreement and the

commercial results of our business, since we, of course, have to turn over our profits at the end of the year."

Do you see that part of your affidavit?

A. Yes.

Q. And then you say, "For this reason" — and I assume you are referring to the working agreement between Dynamit AG and Farben of 1926, is that right?

A. Yes.

Q. You say, "For this reason we sent in reports at regular intervals concerning sales, money receipts, and so forth." Now, Mr. Witness, how regular were these intervals that you sent the sales reports of Dynamit AG to Farben?

DR. GIZALICHES: In order to clear up the record, I would like to point out that there is a mistake in the English translation of this affidavit. The German text reads, "Agreement for community of interests." A working agreement is not at all mentioned in the affidavit.

BY MR. ANCRAN:

Q. Well, Mr. Witness, to be sure we understand each other, by this working agreement, which, correctly or incorrectly, I ascribe to you, you are referring to the Interessengemeinschaft, that is, the agreement between Farben and DAG of 1926, is that right?

A. In my affidavit, I meant those reports which we sent in, on the basis of our agreement for community of interest, to Farben. That is, sales receipts, expenses, and similar matters. This is addressed to the Vorstand of Farben, and we submitted these.

Q. Now, my question, Mr. Witness, is, limiting yourself for a moment only to the sales reports, how regular were the intervals at which you sent such reports to Farben?

A You mean the development of sales? We didn't give any sales reports. We gave the turnover reports. I do not know. I think every quarter—probably every quarter. Maybe every month, but I assume every quarter.

Q Now, to whom in I. G. Farben did you send --

A To the Vorstand.

Q Anybody else in Farben to whom you sent these sales turnover reports?

A I do not know.

Q Did the I. G. Farben Central Bookkeeping Department get a copy of those sales turnover reports?

A To the Bookkeeping Department?

Q That is right, the Central Bookkeeping Department of I. G. Farben. Did they get those reports?

A I think those reports about the financial status were sent to the Central Financial Administration; whether they went to the Bookkeeping Department, I do not believe so.

Q Now, are you talking about the reports of the sales, the turnover sales figures?

A What I know about it?

Q No. First, I want to be sure we are talking about the same thing. Are you testifying now about the reports dealing with the turnover figures as to the sales of Dynamit AG? Is that what you are referring to now?

A Yes.

Q Let us limit it, for the time being, to those turnover figures as to sales and unless I include other kinds of reports just assume I am asking you about the sales reports. Now, then, my question is: Did the I. G. Farben Central Finance Department get a copy of those sales reports?

A I assume so, but I would not swear to it that the reports did go to the Central Finance Department --

Q Of I. G. Farben?

A The Central Finance of Farben, yes,

Q Now, would the defendant Schmitz get a copy of those sales reports?

A I don't think he got them for us; but I don't know.

Q Did Gajewski get a copy of those sales reports of Dynamit AG?

A I don't think he got that from us; but I don't know.

Q Did the Tea office of Farben get a copy of those sales reports?

A I don't think so. That had nothing to do with Tea.

Q But you are not sure whether they got it or not; is that your testimony?

A That is right. I am not sure.

Q Are you familiar with those sales reports?

A I saw them, but I did not make them out myself.

Q Is it not a fact that in those sales reports the turnover figures included the figures with respect to military explosives? Isn't that the fact?

A As far as I know, yes.

Q Now, will you turn to page 4 of your affidavit. I direct your attention to your statement there which says, and I am quoting: "When the business of the DAG became more and more influenced by military matters" — do you see that?

A Yes.

Q "about which we were also obliged to secrecy towards the Aufsichtsrat" —

A Yes.

Q — "we took that opportunity to dispense entirely with our quarterly reports."

A Yes.

Q "Then the Aufsichtsrat was only given a report at the yearly

Aufsichtsrat meeting."

A Right.

Q Then you say, "Here we were not allowed to mention military matters." Do you see that?

A Yes.

Q Could you tell me, Mr. Witness, when did the business of Dynamit AG become more and more influenced by military matters, which necessitated Dynamit AG's discontinuing sending Farben its quarterly reports that you refer to? When did that occur?

A The quarterly reports to Farben, did I understand you correctly? To discontinue these quarterly reports of Farben, is that what you mean?

Q Isn't that what you say on your affidavit on page 4? Are you not referring to the quarterly reports of Dynamit AG?

A On this page 2, they have nothing to do with each other.

Q Mr. Witness, just wait one moment for the question. I just read to you a paragraph on page 4 of your affidavit, D/G Document No. 7.

A Yes.

Q Have you got that paragraph before you?

A Yes.

Q Do you refer in that paragraph to quarterly reports which Dynamit AG sent to Farben? Do you refer to those or not?

A No.

Q Tell me what reports you are referring to there and show me where it is.

A On Page 2 of No. 7, the quarterly reports submitted to the Aufsichtsrat discontinued, and they were prescribed by law and we limited ourselves to giving them in written form and to holding an Aufsichtsrat session every year. We discontinued to make these quarterly reports.

Q Mr. Witness, let's take it one step at a time and see if

we make better progress. Just look at your affidavit. You say there, and I am quoting: "When the business of the D&G became more and more influenced by military matters" --

A Yes.

Q -- "about which we were also obliged to secrecy towards the Aufsichtsrat, we took that opportunity to dispense entirely with our quarterly reports." Do you see that sentence?

A Yes.

Q What quarterly reports are you referring to therein?

A To those quarterly reports which, according to the German law, we had to send to every member of the Aufsichtsrat quarterly.

Q Now, did you also have in those quarterly reports the turnover figures as to the sales which contained the figures on military explosives?

A As far as I remember, we informed the Aufsichtsrat of no turnover figures in the quarterly reports, none at all.

Q In what reports did you advise I. G. Farben of the turnover figures as to sales and indicated therein the figures as to military explosives? What kind of reports were those? Were they different from the quarterly reports?

A Yes, certainly. They had nothing to do with each other.

Q Now --

A They were quite different ones.

Q Now, let's make sure we understand each other. Tell me how often did Dynamit AG transmit reports containing the turnover figures as to its sales of military explosives? How often were such reports transmitted to Farben by Dynamit AG?

A Yes.

Q How often?

A How often? I said I assume quarterly.

Q Now, when did you discontinue sending those reports which contained the turnover figures as to military explosives to Farben?

When did you discontinue sending those reports? First, let me ask you, did you discontinue sending those reports?

A I don't think so.

Q Is it a fair statement then to say that the quarterly reports containing the turnover figures as to the sales of military explosives were continually sent by Dynamit, AG to Farben from the period of 1934 right through the end of the war? Is that a fair statement?

A I think it is.

Q Now then, in your affidavit, in Document No. 7, D/G, the quarterly reports you refer to are different kinds of reports is that right?

A In document No. 7, I only speak of those quarterly reports which went to the Aufsichtsrat but not of such -- yes, to Farben, the first part to Farben and the second part was sent to the Aufsichtsrat.

Q And what did you --

A Two different ones.

Q You'd better tell me now what was contained in these reports that you are referring to on page 4, which you say were discontinued. What was the substance of those reports? Were those just financial statements?

A Well, these quarterly reports which were discontinued, I cannot tell you today what was in them. According to the law, it was prescribed that the entire Aufsichtsrat should be informed quarterly about the whole business. This meant that through the reports the Aufsichtsrat members would be put in a position to have a clear picture about our business, about our financial means, and about the financial and commercial situation of the whole company. From the very beginning, we did this very summarily, and from the beginning we did not give the individual members a detailed picture. We always restricted ourselves and named no figures. Just generally we described and listed the fields which we had handled and we merely said whether

the turnover was decreasing or increasing. And gradually these were just vague reports so that we were glad that we had reason to discontinue them. I know that the members of the Aufsichtsrat did not receive any detailed figures.

Q Now, am I correct in understanding you that the answer you just gave did not refer to the quarterly reports which contained the turnover figures as to sales of military explosives? Your answer did not refer to those reports; is that right?

A That is right.

Q And to be entirely clear, that we understand each other, it is a fact, is it not, that the quarterly reports which contained the turnover sales figures as to military explosives continued to be sent by Dynamit AG to Farben without interruption for the entire period from 1934 through 1945; is that right?

A I assume so, yes. I said this morning that we sent these quarterly reports to Mr. von Schiegel when, as a chairman, these reports meant for the Aufsichtsrat, with the figures of the turnovers and the number of the staff. These went to the Aufsichtsrat.

Q Mr. Witness, try to speak a little more slowly because it is too much of a burden with the interpreters to keep up with you.

THE COMMISSIONER: Mr. Anchan, is it going to be very long?

MR. ANCHAN: I am sorry; I think this would be an appropriate time for a short recess.

THE COMMISSIONER: We will recess for about fifteen minutes.

(A recess was taken.)

THE MARSHAL: The Commission is again in session.

BY MR. AMCHAN:

Q Mr. Witness, is it not a fact that since the end of 1935 you had been giving to Bosch and Schmitz personally your quarterly reports setting out the figures about your military explosives sales. Isn't that the fact?

A From 1935 on we gave these figures which contained the explosives only to the chairman of the Aufsichtsrat.

Q Give me the names of the people.

A Which people?

Q The people who received the records setting down the Dynamit A.G. figures with respect to sales of military explosives.

A The figures we gave to the chairman would have been addressed to the chairman of our Aufsichtsrat.

Q What is the name of the people to whom you gave these reports?

A To no people - no names.

Q Did you physically hand these reports to anyone or did you send them to anyone?

A We sent them by mail.

Q To whom?

A They were addressed either to the Central Financial Administration — those were the I.G. reports — and those that contained the figures were sent to the chairman of the Aufsichtsrat.

Q And who was that?

A After 1935 it was Herr von Schänkel; after 1938 it was Geheimrat Schmitz.

Q So to be sure that I entirely understand you, Mr. Witness, is this the fact: that after 1938 Dynamit A.G. sent to Geheimrat Schmitz the reports indicating Dynamit A.G.'s turnover in military explosives? Is that right?

A Yes, it was contained therein.

Q Now, Mr. Witness, is it not a fact that you insisted upon giving Geheimrat Schmitz these figures about the supplies of military explosives — that is, the figures of Dynamit A.G.'s sales of military explosives — because you felt that without these figures about the military explosives the reports would present a false picture. Is that not correct?

A As far as I know, we named one figure in which the turnover of military explosives was contained. The military turnover, therefore, was contained in it.

Q I show you, Mr. Witness, prosecution Exhibit 2159, which is NI-15163. Now, that is a letter of Dynamit A.G. of 24 September 1938 addressed to Geheimrat Schmitz. Now, is that your signature and the signature of Dr. Mueller underneath Dynamit A.G.?

A Yes.

Q Now, then, will you please look at Paragraph 3 which says: "Our supplies to the military about which we are generally not permitted to talk are also contained in the turnover figures. Without these figures the report would present an entirely false picture."

Now, Mr. Witness, does this document refresh your recollection that in the quarterly reports which Dynamit A.G. sent to Schmitz and which contain the turnover figures of your supplies and sales to the military — does that document refresh your recollection that you told Schmitz that without these figures of military explosive sales a false picture would be given in the quarterly reports?

A Yes.

Q Now, you mentioned in your affidavit the Verwertchemie. Now, is it not a fact that, prior to 1 September 1939, you informed Farben that Verwertchemie was a wholly-owned subsidiary of Dynamit A.G.?

A Whether the Verwertchemie was a subsidiary firm? Yes, the capital of the Verwertchemie belonged to DAG.

Q The entire capital?

A The entire capital.

Q When was Verwertchemie organized?

A Established? I assume at the beginning of the 1930's.

Q Now is it a fact that from the establishment of the Verwertchemie, it continued to be a wholly independent subsidiary of Dynamit A.G.?

A No, originally it was established for a different purpose. As far as I remember, originally part of it belonged to Wasag; but at any rate, later on — it must have been in the middle of the 1930's — we had it alone.

Q When you say you had it alone, do you mean that Dynamit A.G. owned the entire capital of Verwertchemie?

A Yes.

Q Now could you fix the date as best you can when Dynamit A.G. became the sole owner of Verwertchemie?

A 1935, but I am not certain.

Q That is your best recollection though, is it not?

A Yes.

Q Now in the quarterly reports that you and Dynamit A.G. sent to Schmitz in which you set forth the turnover figures as to military explosives of Dynamit A.G., did you also separately list the figures as to the turnover of Verwertchemie?

A I believe so.

Q Do you recall, Mr. Witness, whether or not in the reports which you and Dynamit A.G. sent to Farben you also included information about the number of employees of Verwertchemie?

A I believe so.

Q Now let me ask you, Mr. Witness, did you know of the activities of the Verwertchemie?

A Whether I knew about the activities of Verwertchemie? Yes.

Q Yes. You did know?

A The activities of Verwertchemie I knew, yes.

Q Is it not a fact that prior to 1 September 1939 you also informed Farben in addition to the Verwertchemie activities, about the activities of Wasag and its subsidiary company, Deutsche Sprengchemie? Is it a fact that you informed Farben about the activities of the companies you just mentioned?

A That we informed them? No. We were supposed to have informed the I.G. about the activity of Wasag? No.

Q Who is Wasag?

A The Westphaelisch Anhaltische.

Q What business were they engaged in?

A I didn't get that. It was a dynamite company like we are.

Q You mean it was engaged in the business of producing gunpowder and ammunition and explosives?

A Yes.

Q Who owned the Wasag?

A It is a shareholders' company.

Q Who is the main shareholder?

A I learned afterwards that --

DR. GIERLICH: I object to the question asked the witness about the Wasag. The Wasag is not mentioned in the affidavits which are the subject of today's cross examination, and therefore the cross examination goes beyond the scope of the affidavits.

THE PRESIDENT: The objection will be noted in the records.

DR. GIERLICH: I want to move now already that all answers by the witness which refer to this question should be stricken from the record.
BY MR. AMCHAN:

Q Mr. Witness, I am inquiring about the reports that you as an official of Dynamit A.G. made to Farben, and I am asking you whether in those reports you referred to Wasag and the Deutsche Sprengchemie?

A No.

Q You did not refer in those reports to those companies?

A What do you mean "refer to"? We did not report anything about those companies.

Q Did you participate in a discussion with Farben officials prior to September 1, 1939 in which you discussed the organization and activities of Wasag and Deutsche Sprengchemie?

A No.

DR. GIERLICH: I object for the same reasons.

MR. AMCHAN: I might state for the record that since the witness refers in his affidavit to the activities of Dynamit A.G. and he specifically mentions one subsidiary, Verwertchemie, it is in our view proper to interrogate him with respect to other subsidiaries which are engaged in the same field of activity and to ascertain whether he discussed with Farben the activities of the other subsidiary companies, such as Wasag and Deutsche Sprengchemie, who were producing explosives along with Dynamit A.G.

DR. GIERLICH: The prosecution has brought no evidence up to now that the Wasag or the Sprengchemie were subsidiaries of the Dynamit A.G. As a matter of fact, this is actually not the case. Therefore, the pre-requisite for the questioning by the prosecutor is missing.

MR. AMCHAN: What the facts are with respect to Wasag and Deutsche Sprengchemie are already in the record, and this is not the time to argue what those facts establish. The witness' permanent participation in the activities of these companies in relation to his position in Dynamit A.G. and Farben is what I am inquiring about.

BY MR. AMCHAN:

Q Now, Mr. Witness, did I correctly understand you to say that you did not discuss with Farben prior to 1 September 1939 and that you were not present at any discussions with Farben officials prior to September 1, 1939 at which the activities and organization of Wasag and Deutsche Sprengchemie were discussed? Is that your testimony: you were not present at any such discussions?

A. I cannot remember any discussion with gentlemen of Farben which referred to the Wasag.

Q. O.K. Now I will show you Prosecution Exhibit 353, which is NL 5685. That is a file memorandum on a conference at Troisdorf on 31 January, 1939. Listed as present from I.G. Farben are Dr. Buhl and Dr. Boeckler; and from Dynamit AG, Director Dr. Schmidt. Does that refer to you?

A. Yes.

Q. Now, will you just look at paragraph 5, which states: "The daughter company of the DAG concerned is the Gesellschaft zur Verwertung Chemischer Erzeugnisse." That is the Verwertchemie we mentioned. "Its company capital, consisting of 300,000 Reichsmarks, is entirely held by the DAG."

A. Yes.

Q. "Only officials of the DAG are appointed as managers."

A. Yes.

Q. Now, the next paragraph, I am quoting: "Dr. Schmidt" — Does that refer to you?

A. Yes.

Q. I am quoting again: — "mentioned at the same time that the Wasag worked on the Montan scheme as well, and, accordingly, the daughter company of Wasag was the Deutsche Sprengchemie Gesellschaft. This company had previously been a joint undertaking of DAG and Wasag, but now belonged entirely to Wasag."

A. Yes.

Q. Now, Mr. Witness, does this document, Exhibit 353, NL 5685, refresh your recollection that you, as a representative of Dynamit AG, discussed with Farben officials and informed them, prior to 1 September, 1939, of the activities of the Wasag and Deutsche Sprengchemie and Verwertchemie?

A. As far as it says so here, yes, of course.

Q. Do you recall, Mr. Witness, whether, at any time prior to 1 September, 1939, you discussed the activities of these companies with the defendant Ambros?

A. No.

Q. Do you recall whether, at any time prior to 1 September 1939, you discussed the activities of these companies with the defendant ter Meer?

A. That I discussed this with ter Meer? No.

Q. Will you please look at Exhibit 353, NL-5685, at the end of that exhibit? Is your recollection refreshed by the appearance on that document of a notation that a copy of the file memorandum went to ter Meer and Ambros? Does that refresh your recollection that you discussed these matters with Ambros and ter Meer?

A. This file note does not originate from us, it originates from I.G. Farben, from Buhl. He handed it on to those gentlemen; we did not. I remember very well this discussion with Ministerialrat Buhl; it only concerned the DAB relations with Montan. If, during that conversation, I mentioned the fact that Waseg too had such a scheme, that does not mean, of course, that I should discuss the Waseg and its subsidiary firms with gentlemen of the I.G.

Q. Mr. Witness, is the phone system working all right for you?

A. Yes, very well.

Q. Is it not a fact, Mr. Witness, that as early as 1937 Dynamit A.G. informed Farben, particularly the Berlin NW-7 office, of the activities of Verwertchemie? Is that the fact?

A. We probably informed I.G. Farben about the intentions we had with the Verwertchemie -- that might have been in 1937 -- namely, that we wanted to utilize the Verwertchemie, as is stated here. That is quite probable.

Q. Now I show you, Mr. Witness, document NL-15315, which we offer as Exhibit 2340. Now that is an affidavit of Franz Anton Gierliche.

Do you know who the affiant is?

A. Yes. There he is (indicating).

Q. Now, in that affidavit he refers to the fact that he, as custodian of the records of Dynamit A.G. at Troisdorf at the present moment, is unable to locate a copy of a letter of 14th May 1937 which Dynamit A.G. sent to Farben in connection with the affairs of Verwertchemie, and he states in his affidavit that the Dynamit A.G. records in Troisdorf do have a record that such a letter, in May of 1937, relating to the subject matter Verwertchemie, was sent to Farben.

Mr. Witness, does this document, Exhibit 2340, WL-15315, refresh your recollection at all as to the nature of the correspondence that took place between Dynamit A. G. and Farben concerning the affairs of Verwertchemie around the year 1937?

A. No. I don't know what the letter of 14 May dealt with.

Q. Does this document refresh your recollection that there was considerable correspondence in that year between Dynamit A.G. and Farben with respect to the activities of Verwertchemie?

A. No.

Q. You mean the document does not refresh your recollection?

A. That is right.

Q. Now, with respect to Verwertchemie, is it not a fact that you gave Farben — particularly the defendant Schmitz and the Central Book-keeping Department of Farben — financial statements about the Verwertchemie operations?

A. We certainly gave them some information, but what sort of financial statements this refers to, I do not know. We might have reported about the general financial situation, that is possible.

Q. Well, do you recall whether or not, in the reports dealing with Verwertchemie about its financial condition, you informed Farben of the facts with respect to the substantial amount of credits which Farben had extended —

MR. AMCHAN: There is something wrong with the sound system.

THE COMMISSIONER: Very well.

BY MR. AMCHAN:

Q. Mr. Witness, how much of the last question did you hear or do you remember?

A. None?

Q. Do you recall, Mr. Witness, that with respect to the reports of Dynamit A.G. to Farben, dealing with the financial condition of Verwertchemie, that you reported the credits which Farben had extended to Verwertchemie?

A I.G. Farben did not grant any credits to the Verwertchemie.

Q I show you this document, Mr. Witness, which we mark as Exhibit 2341 for identification. The reason I mark it for identification at this time is that the photostat of the original will not be available until tomorrow and I am serving notice on Defense that we will ask to offer it in evidence as soon as the photostat of the original is available. The present purpose is, Mr. Witness, I show you this document which is a financial report from Dyncmit AG to Geheimrat Schmits, dated 4 September 1944, relating to the affairs of the Verwertchemie, the financial affairs, and I ask you whether or not that document refreshes your recollection that Verwertchemie owed Farben 68 Million Reichsmarks.

A That is possible, that this existed, because of shipments made. The amount seems rather high to me.

Q Shipments made between whom?

A From the I.G. to the Verwertchemie.

Q I am afraid I don't understand the nature of that transaction. Who sold goods to whom?

A I.G. supplied raw material to the Verwertchemie, chemical products.

Q Were they --

A Although the amount of sixty-eight million seems rather high to me.

Q Now, those products that you say that I.G. Farben supplied to Verwertchemie, were those intermediate products which Verwertchemie needed in connection with the production of explosives?

A Yes, yes.

Q For how long a period of time did Farben supply Verwertchemie with these intermediate products? What year was the first substantial shipment of intermediate products made by Farben to Verwertchemie?

A As long as the plants of the Verwertchemie were in production.

Q When did the shipments begin? When is the first year when Farben --

A I don't know that. I assume in 1937.

Q Now, then, with respect to the document you have in your hand, Prosecution Exhibit 2341 for identification, does that refresh your recollection that Dynamit AG informed Farben of military business of Verwertchemie and of the fact that Verwertchemie had outstanding claims against the military in Germany in the amount of one hundred twenty-four million Reichsmarks?

A That we made this report about our financial condition, yes.

Q When you say "your" financial state, are you referring to the financial state of Verwertchemie?

A Of DAG and its subsidiary plant, the Verwertchemie.

Q I want to be sure that I understand you. Is it your testimony that when DAG reported to Farben with respect to its own financial condition, it also reported on the financial condition and business of the Verwertchemie; is that correct?

A Yes, but I must comment on this. The money which was received by the Verwertchemie went via the DAG. We were a kind of bank for the Verwertchemie. That is why it says it here, under figure 2, "Permanent Cash Reserve for the Laenderbank on 30 November 1944 with the G.m.b.H." These are payments due. Fifty-seven millions. These fifty-seven millions we had reserved in the Laenderbank so that on 30 September we would be able to give it to the Verwertchemie for its depreciation in so far the financial state in the G.m.b.H. was of as much interest as our own financial state, and that is why the figures are contained here.

Q Now, you are talking — at least your last answer dealt with Exhibit 2341 for identification; is that right?

A Yes.

Q The document you have in front of you?

A The last one, yes.

Q Now, my question is a little broader. I was asking you about the situation generally, and will you please listen to my question again. Is it a fact that in the reports which Dynamit AG made to Farben

with respect to the financial condition of Dynamit AG, that Dynamit AG in those reports also set forth the financial condition of Verwertchemie, particularly in connection with the conduct of Verwertchemie's business?

A Yes.

Q Mr. Witness, do you understand my question? I am not asking you about the document you have. I am asking you about the general procedure and practice with respect to the reports of Dynamit AG to Farben and with respect to the information in those reports pertaining to Verwertchemie.

A I do not know any more.

Q You don't recall that any more, do you?

A No.

Q Now, this document that you have before you, Exhibit 2341 for identification, does it refresh your recollection that similar reports were sent by Dynamit AG to Farben in prior years?

A Yes, yes.

Q Over how long a period of time would you say such similar reports were sent by Dynamit AG to Farben? For how many years were such reports being sent to Dynamit AG to Farben?

A I don't know.

Q Would you say that about 1937 you started sending such reports?

A Possibly before that.

MR. AMCHAN: We have no further questions, if Your Honor please. If Your Honor please, in view of the hour, the defense counsel inform me that the redirect examination of this witness will take some time, we have agreed to have the examination of this witness continued Tuesday afternoon. We have also agreed that the witness is to be considered as being under the jurisdiction of the Tribunal until the conclusion of his examination and we are stating this on the record so that the witness himself will understand that he is not to confer with any defense counsel or anyone with respect to the testimony he has given today; so that when the redirect starts it will have the same force and

effect as if it was, from the point of view of time, continued immediately after this cross examination.

Now, Mr. Witness, did you understand my statement?

THE WITNESS: Yes.

DR. GIERLICH: Mr. Commissioner, just one question. Mr. Amchan correctly reproduced the private discussion we had with him, but in view of the fact that Dr. Schmidt, the witness, suffers from diabetes and therefore his stay is rather difficult because of the diet he has to keep, I would like to ask that he be given opportunity to state here whether the settlement seems suitable to him or whether for physical or medical reasons he does not want to be examined on Tuesday because in the meantime he wants to go away.

THE WITNESS: I shall return to Cologne. When on Tuesday?

DR. GIERLICH: At 1:30 Tuesday afternoon.

THE WITNESS: I would have to come back Monday then.

MR. AMCHAN: We agree that Tuesday at 1:30 is the date at which the hearing of this witness is to be continued.

THE COMMISSIONER: What do we have on Monday?

MR. AMCHAN: We have a hearing scheduled for 1:30 Monday, and I understand Commissioner Mulroy will be sitting then.

THE COMMISSIONER: Who?

MR. AMCHAN: Commissioner Mulroy.

THE COMMISSIONER: Well, the Switzerland trip is off.

MR. AMCHAN: Is off? We will be glad to have you sit on Monday. Well, one moment please. If your Honor is going to be here Monday, we can do a little business in the morning. Suppose I get in touch with Your Honor, and we have a hearing scheduled for 1:30 Monday. If anything intervenes where we can have any hearing before that, we will see that defense counsel and Your Honor are informed in due time.

THE COMMISSIONER: I will recess until 10 o'clock Monday, and then we can think it over, and the commissioner will be in recess until 10 o'clock Monday morning.

(The commission recessed until 1000 hours, 3 May 1948.)

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

Roll 13

Target 3

Volume 37, p. 13,134-13,489

May 3-4, 1948

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

OFFICIAL RECORD

UNITED STATES MILITARY TRIBUNALS NÜRNBERG

**CASE No. 6 TRIBUNAL VI
U.S. vs CARL KRAUCH et al
VOLUME 37**

**TRANSCRIPTS
(English)**

3-4 May 1948 pp. 13134-13489

Official Transcript of Military Tribunal VI, Case VI
in the matter of the United States of America, against
Carl Krauch, et al, defendants, sitting at Nurnberg,
Germany, on 3 May 1948, Justice Shake presiding.

THE MARSHAL: Persons in the Court room will please find their seats.

The Honorable, the Judges of Military Tribunal VI.

Military Tribunal VI is now in session. God save the United States
of America and this Honorable Tribunal.

There will be order in the court.

THE PRESIDENT: You may report, Mr. Marshal.

THE MARSHAL: May it please, Your Honors, all the defendants are pre-
sent save the defendants "Krauch and Hoerlein, absent due to illness.

DR. HOFFMANN (Defense Counsel for defendant Ambros): Mr. President,
up to this time I have not found myself encumbered for a moment because
of the fact that Commission sessions were also being conducted next to
the sessions of your Honor's Tribunal. Now, for instance, twenty witnesses
are being examined before the Commissioner about the Auschwitz case. I
considered it my duty under these circumstances and for the expedition
of the trial to work as hard as I can. However, on looking through the
documents, on Saturday, I found up to 10,000 documents; a superficial
glance showed me that about one hundred to two hundred are applicable to
my client Ambros, so that with the best intentions and with the best per-
formance it is impossible for me in the present circumstances to be finished
by the 12th of this month. Under these circumstances I hope you will under-
stand if, in view of this new event, I make application to Your Honors
in this court room that first, the deadline for handing in documents be
prolonged for two weeks and, secondly, the end of the presentation of evi-
dence be postponed for two weeks.

DR. Rudolf DIX: Speaking for all of the defense. Your Honors, I want
to second this petition and the complaint and worry of my colleague Hoff-
mann in the name of all of the defense. We have been offered more than

12,000 documents. Last Saturday the defendants looked through the index books for those documents, from which, however, one can still not recognize the contents of the documents. In these thirteen index books there were only the file indexes of altogether 1677 documents; most of these 1677 documents have already been offered by the Prosecution. It is now necessary to compare these index numbers with the register of exhibits, those documents that have been offered.

I have been told that the defendants probably will want to examine 300 documents, judging by those indexes, but this examination could only be very superficial. It is a two-faced present by the Prosecution.

In the Flick trial the Prosecution offered at the very beginning of the trial those documents, which they wanted to make available to the defense. That is to say, we had time to examine them in pence.

I am, then, of the same opinion as my colleague Hoffmann, that the only possibility would be to give us a deadline after 12 May, so that we would be able to offer documents that we shall find later even after that deadline. Today we have a conference of the defense, at which we want to discuss this situation. Perhaps the Tribunal would be kind enough to give us an opportunity to talk this matter over tomorrow in chambers, so that this suggestion might be more thoroughly discussed and some other way out might be found. At any rate, the way it is now it is technically impossible to digest all of this material.

I have two other worries on behalf of the defense. The second point is in regard to the rebuttal document books. We have one of these three books that are to be offered, the second volume, regarding Auschwitz, we have the index. The third volume we don't have it all. The problem is, then, how can we procure counter-evidence against these rebuttal document books within the time at our disposal. Perhaps Your Honors might be kind enough to discuss this question also with us in chambers tomorrow.

Then the third point, which gives us concern and worry is the objections

that have been raised in the proceedings before the Commissioner. The Tribunal decided that they wanted to rule on these objections themselves, but we have to begin with our trial briefs and final pleas, now. That is, we are forced to concern ourselves with points in the evidence against which the defense has objected before the Commissioner. In view of the amount of work pressing down on us and in view of the short time, that is not very practical. Therefore, we should be very obliged to Your Honors if we could get a decision about the objections raised in the Commissioner's proceedings so that we don't do superfluous.

These are the three points. I again want to make the practical suggestion that we should be given an opportunity this evening to discuss this matter among ourselves, something we haven't been able to do as yet, and that tomorrow the Tribunal meet us in chambers to talk about these three points.

THE PRESIDENT: Well, gentlemen, the doors of the Tribunal's chambers are open to you at any time with reference to any matter that you deem to be of importance, but I think I can speak for the Tribunal with some finality with respect to the three matters that have been suggested.

First, regarding the documents in the Document Center. This trial has been in progress since August 27. The motion for access to these documents was filed quite recently - if recall correctly, April 7 - but whatever it may be, the record will show. At the time the Tribunal ruled on that motion, we made it clear and emphatic that the relief granted would not be calculated to delay the termination of this case.

In other words, there is an obligation of diligence on counsel for the defendants. The Tribunal does not feel that you're entitled to delay the closing of the case because of the delay in presenting of your motion. Whatever documents you may be able to find and present that meet the test of materiality and competency, the Tribunal will receive them, but we have already indicated, and you gentlemen are advised as to the program on the

closing of this case.

After the presenting of the evidence on behalf of Dr. ter Meer, who is now on the stand, we shall hear the completion of the evidence on behalf of the defendant von Schnitzler. Following that, the defendant Schmits. Following that, the defendant Krauch and some general evidence of which you gentlemen are advised, and then we shall hear the presentation of the reserved and omitted evidence on behalf of the defendants generally, with respect to which you are also advised.

In other words, the Tribunal is not disposed to grant continuances or delays in the completion of the evidence in this case because of the relief granted on the motion recently filed. I think that is enough to say on the first point.

Now, as to the second, with respect to the rebuttal documents presented by the Prosecution. In the orderly and ordinary procedure of a trial, those documents would not have been presented until the conclusion of the defense's case; and consequently, under the liberalization of the rules that we have indulged here, defense counsel are in better position to be advised with respect to those documents than you would have been if we had followed regular procedure and the documents had been presented after you had rested and then you would have been called upon to determine promptly whether or not you desired to object to those documents and also present your sur-rebuttal, if you had any. That, it seems, ought to be a sufficient answer to this matter.

Now, as to the third, the objections to the proceedings before the commissioner, we indicated several days ago that we were ready to rule on those objections. We asked counsel for the Prosecution and the Defense to furnish us with a simple memorandum giving the transcript page of the English transcript where the objections that you wish to have us rule upon may be found.

We did that for two reasons: So that our attention could be directed to the matters that should receive our attention and, secondly, that you might have an opportunity to reappraise the situation and determine what objections you wish to urge and what objections, if any, you wish to abandon.

The Prosecution has since said that it will urge none of its objections but that it will ask us to take into consideration in weighing the evidence, the objections that it made at the time. That disposes of the problem, so far as the Prosecution is concerned.

We have not, up to this time, however, had any indication of the objections which counsel for the Defense wish us to rule upon. If you will simply give us a memorandum of the citations to the pages of the English transcript where you wish to have a ruling, you will get a ruling just as promptly as we can go over the record.

I may say that the matter of the admissibility of evidence at this late hour ought to require no great study on the part of the Tribunal or occupy much time on the part of counsel for the defense. I think the Tribunal, with the background of experience that we have had in hearing this evidence, can determine pretty promptly whether objections are or are not well taken, and we will undertake to rule just as promptly, if we know what questions you wish us to pass upon.

So, gentlemen, as I said before, you can see us in chambers any time you wish, but in fairness to you, I think I ought to tell you on behalf of the Tribunal that we are not persuaded that there is any sound reason

for delaying the closing of the evidence in this case along the line that has been determined in the outline worked out between counsel and Judge Hebert for the Tribunal.

Are there any other announcements from the Prosecution or from counsel for the defense?

DR. RUDOLF DIX: I want to say just two more words about the first point. The application of my colleague Hoffmann is not intended to delay the decision, your Honors. If I understood him correctly, he was merely concerned with getting a certain period of time after the end of the presentation of evidence, after the 12th of whenever it is, when we would have the right to bring in supplementary documents.

In regard to your Honor's statement about the late date when the motion was handed in on 7 April, I don't want to say anything about that, because at the moment I don't recollect the record and the dates very well and I certainly don't want to make any wrong statements before Your Honors; but I seem to remember one thing, and that is discussions about the non-availability of evidence already being conducted at a very early stage of this trial. I am not trying to claim that we made a definite motion at that time, but we were concerned with the problem frequently thus I want to protect my colleagues and myself against the reproach that we did not think of it until 7 April. We are grateful for the opportunity to discuss the matter tomorrow in chambers.

THE PRESIDENT: Perhaps I should say one thing in direct reference to what Dr. Hoffmann said, The Tribunal, counsel for the Defense, and counsel for the Prosecution alike are concerned sometimes with processing problems here, getting documents translated and mimeographed so they are actually available to the Tribunal. With respect to that problem, the Tribunal will try to work in cooperation with you so that you will not be denied any rights because of circumstances beyond your control. By that I wish to suggest that if you have documents to supplement your case in chief, or

that you expect to use to meet the rebuttal documents of the Prosecution, and we run into some problems of getting them translated and getting them mimeographed so that they are available — we will cross that bridge when we get to it. The Tribunal is not inclined to be arbitrary about administrative matters, over which counsel for the defense or the Prosecution do not have too much control and with respect to which the Tribunal itself sometimes has trouble; but by that I wish to suggest that if there are documents in the document center that you wish to use in the completion of this case and you have some delay or difficulty in getting them translated and mimeographed, we can work out something along that line, but we cannot under the circumstances grant any delay or continuance in order that you may conduct further inquiry with respect to evidence.

There has been such discussion, Dr. Dix, about access to documents on the part of both sides. We have heard the Prosecution's views and its troubles in that regard, we have heard from counsel for the Defense in that respect — certain conditions over which none of us have much control. We have to take the situation as it is. The Tribunal feels that the time that has been devoted to the presentation of the evidence here is ample, from its viewpoint to afford counsel a timely opportunity to present what is available.

Anything else, gentlemen?

DR. HOFFMANN: Mr. President, may I remark very briefly: My learned colleague, Dr. Dix said very properly that I did not make the motion in order to delay the time when your Honors intended to pronounce the judgment. Without wanting to make any suggestions to your Honors, I merely thought of the fact that in other trials here — for instance No. IX — the Defense also had a right to introduce documents after the end of the presentation of evidence.

THE PRESIDENT: In that respect, if you can make your showing as to what the document is and indicate to us its competency, so that we know

what the document is to be and that it is material, we might be able to help you somewhat with respect to translating and mimeographing, but I do wish to make it clear, if I can, that the Tribunal is not disposed to delay the presentation of the evidence in order to afford opportunity to search for documents or to determine what documents are to be offered. Is that clear to you?

DR. HOFFMANN: Yes, Your Honor.

THE PRESIDENT: Very well.

MR. SPEECHER: Mr. President, on the last point, defense counsel or your Honors, when you are discussing this administrative problem, might call us in with respect to those some 1200 documents — probably later it will be 1500 or so. I think we will in some cases have part of that processing completed and will be able to help.

THE PRESIDENT: Well, of course, gentlemen, when the Tribunal discusses matters of import with respect to the case, we expect counsel for both sides to be present and to govern yourself accordingly. Of course, if it is a pure administrative detail, with reference to a single document or something, it is not necessary to burden or bother the opposing counsel, but when we are determining matters of policy we will hear you both together.

Anything further from the defense counsel? Anything we will hear you both together.

Then, counsel, you may proceed with the examination of Dr. ter Meer, who is now in the witness box.

DR. BERNDT: Would you permit me to interrupt you just for a moment to say that the defendants Ambros and Buetevisch are privileged to leave the courtroom to attend a Commissioner's hearing at ten o'clock this morning if they wish to go.

DR. BERNDT: Mr. President, Your Honors. The defendants are charged with having undertaken acts of plunder in Poland. However, up to this point the Prosecution has not stated specifically, whom among the defendants they

charge with these particular things. Up to this point, the problem of Poland has not yet been clarified, partly because individual defendants did not take the witness stand and partly because no exhaustive questions have been put about this problem.

In the interest of clarifying the Polish question, I, therefore, see myself forced, not alone for the defendant Ter Meer but for your Honors' enlightenment and for the presentation of the point of view of the Defense to the Prosecution also to clarify this Polish question somewhat.

FRITZ ter MEER - Resumed

DIRECT EXAMINATION - Continued

BY DR. BERNDT (Counsel for defendant Ter Meer):

Q.- I should like to ask you, Dr. Ter Meer, to tell me briefly what the chemical industry in Poland was like before the Second World War, particularly with respect to the fact that the witness Schwab has already given a brief survey about the chemical industry of Poland.

A.- I personally don't know the Polish chemical industry closely, but if the indictment speaks of the Polish chemical industry, this is the same mistake as in the case of France. The Polish dyestuffs plants were enterprises of small and medium size and constituted only a fraction of the entire chemical industry of Poland.

Q.- Before the war broke out, did you know the Polish dyestuffs plants?

A.- I knew them only by name. Once in 1934, I was in Warsaw at the Cartel Conference mentioned by Mr. Schwab, but I did not visit any plants on that occasion. I didn't even go to see the Winnica plant, which is situated close to Warsaw. The Polish dyestuffs industry was created artificially by high tariff barriers. It was not a large industry, and I was not interested in it at all.

Q.- Did you or Farben before the war broke out, have any plans in regard to the dyestuffs industry of Poland?

A.- No, we didn't have the least considerations about them, and certainly no plans. You know that I didn't expect any war.

Q.- The Prosecution, however, has showed us a Vowd pamphlet published at the end of July 1939, which concerned itself with the Polish chemical industry. How do you explain that?

A.- From my own positive knowledge I cannot say anything about that. The TEA office never collaborated very closely with the Vowd in Berlin, because we generally interested ourselves in technical things and the Vowd essentially only collected economic problems from newspapers, magazines, and so on.

Therefore, I can only express my opinion about the origin of this pamphlet on Poland. The chief of Vowd was a very ambitious person and certainly wanted on various occasions to show that his department was up to date. Just as a newspaper or a magazine will publish an article about a country where there happens to be some political or other event of interest, I think that the chief of Vowd here again for journalistic reasons perhaps wanted to bring something about Poland when the first friction and border incidents became known on the German-Polish border. About the value of this piece of work Mr. Schwab has already made very clear statements.

Q You had nothing to do with the pamphlet then, and you didn't make any disposition about it?

A No, I made no disposition about it. I don't even know if I read it. That is possible, however. You know that at that time I was in Karlsbad for vacation, in August.

Q Shortly after the war broke out, two commissars were appointed for the Polish dyestuffs factories. Who appointed these commissars?

A The Reich Ministry of Economics.

Q Who was that? What persons were they?

A They were Schwab and Schoener.

Q Were these Farben people?

A Yes, Mr. Schwab was a commercial man, and Mr. Schoener was a technical expert of Farben; the suggestion to appoint these two men commissars was based on the fact that the dyestuffs plant is a specialized business which in Germany was practically dominated by Farben. If one wanted to appoint reasonable people for trustees in Poland, one had to take people who knew the matters, and they were only people from Farben.

Q Who suggested Mr. Schoener as technical commissar?

A I was asked at the time for a suitable technical man, and I named Dr. Schoener.

Q Can you tell me why you selected Mr. Schoener as technical commissar?

A Mr. Schoener was the plant manager of the Wolfen plant. He had a great deal of practical experience in the dyestuffs field and knew particularly well those groups of dyestuffs that were predominantly produced in Poland. Also, Schoener was a very calm and objective person. He was not a pushing man in any way, and for that reason too I considered him suitable for a trustee.

Q Did you give any instructions to Mr. Schoener for his

work?

A As far as I remember, before Mr. Schoener made his first trip to Poland in September 1939, I talked to him only over the phone. He did not receive any instructions from me. That was the affair of the Reich Ministry of Economics. I want to make one thing quite clear. As far as I was concerned, Schoener was a commissar of the government, and he had to act according to the instructions given to him by the Reich Ministry of Economics and later the Main Trusteeship Agency East.

Q Did you maintain that point of view later?

A Yes. Schoener tried repeatedly to discuss his trusteeship activity in Poland with me, and I always told him: "Schoener, you are a commissar; that is your affair. I don't bother about that. You must make your own decisions."

Q According to what did he have to decide?

A According to the instructions he was given by the Berlin authorities.

Q Didn't Schoener send you the reports that he prepared for the Reich Ministry of Economics in his capacity as commissar?

A As Mr. Schwab has already testified, the first four reports about the inspections of the plants were sent to Frankfurt, and I did take cognizance of these reports; but later no more reports arrived, and Schwab has testified to that also.

Q Did you consider the appointment of commissars or trustees for the Polish dyestuffs plants proper and correct?

A Yes, I always consider it proper if measures are taken which are to maintain order and preserve existing values. Apart from that, we had our own interests to safeguard in the case of the Winnica plant, because we participated in it.

Q The Prosecution has submitted Exhibit 1139 in Book 55 on page 87, page 56 of the English. This is a letter from Farben to the

Reich Ministry of Economics dated 14 September 1939. This letter speaks of the significance of the Boruta and Winnica plants for the German military economy. What is meant by that?

A I did not write that letter. I don't think I would have put it in that form, because these are pure dyestuffs plants. This letter points out that 85% of German dyestuffs production was situated in the west and that for that reason any plant not situated in the west of Germany was twice as valuable. That points to the fact that there can be no question of military economy.

Q The Prosecutor in the cross examination of Schwab asked whether it was correct that the Reich Ministry of Economics appointed him for the purpose of adapting the Polish plants to the requirements of the German war economy; the same is to be found in Prosecution's Exhibit 1140 in Book 55, on page 94, page 60 of the English. Does one have to infer that a reorganization of the Polish plants to the production of Wehrmacht requirements was intended?

A No, that was never intended and never happened. As we know from the reports of the trustees, there was a small plant in the Boruta enterprise for the production of explosives and for the production of tear gas. This plant was never put back in operation. During the entire war, Boruta and Winnica never produced anything but intermediates for dyestuffs, dyestuffs themselves, chemicals for the rubber goods industry, and other peacetime products. Merely to be quite correct, I want to add here that the Phenylbetanaphthylamine produced for rubber goods was once called an indirect Wehrmacht requirement in the case of Francolor. I have already called that a play on words. It doesn't change the fact that phenylbetanaphthylamine was an auxiliary product for the rubber goods industry or for the stabilization of Buna, and that it is not gunpowder, not an explosive, not a poison gas.

Q Were any negotiations conducted with the Army Ordnance

Office for the reconversion of Polish production to Wehrmacht material?

A I don't know anything at all about that; I consider it completely impossible.

Q How do you explain the expression, "adaptation to the German war economy."

A This is perhaps a general formulation referring to the War Economy Regulation issued on 4 September 1939. It is contained in Document Book I in the collection of regulations and decrees submitted by you -- the regulation of economy in the Third Reich; that is Document 15. For the rest, the sentence in the appointment certificate of both trustees says that their activity was to adapt itself to the requirements of German war economy and German exports to neutral countries; that does not point to the production of army requirements.

Q We want to discuss briefly the three Polish plants. First we shall take up Winnica. Please describe to me the ownership conditions in the Winnica plant before the war broke out.

A An internal arrangement with the French people dyestuffs group was that Winnica was to be considered as owned one half by the French and one half by Farben. Mr. Schwab has described that already. I can confirm what he said: that, the French always gave us all the records on production, sales, financial questions, financial statements, etc. I myself frequently examined these records before the war and discussed them with Monsieur Frossard. The fact that the Farben-owned shares were not made out in Farben's name but were held by the I.G. Chemie in Basel I always explained in this way: at that time the Germans did not have the right of settling and operating plants in Poland and for that reason were not permitted to appear as the owners of shares. For that reason, the shares were made out to the name of I. G. Chemie Basel; but, as Mr. Schwab has stated, it was understood by I.G. Chemie Basel and

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Farben that these shares were held on our behalf, they were, so to speak, the trustees for us; and we could get them from I. G. Chemie Basel at any time by refunding the purchase price. .

Q. Then in your eyes Farben was the legal co-owner, of one-half of Winnica?

A. Yes.

Q. Why then was Winnica confiscated by the German authorities and made subject to a trusteeship administration?

A. I don't know, but it may be that from a purely formal point of view the firm was considered as having French ownership, a country with which Germany was at war, and that it was confiscated for that reason; I don't know.

Q. Were you ever in Winnica yourself?

A. No.

Q. We don't have to go into details about the Winnica case, especially since the witness Schwab has testified about it already. I merely want to ask you, in your capacity as a technical expert, to explain the antraquinone question again briefly, since the witness Schwab did not know very much about that.

A. Antraquinone is an intermediate for dyestuffs. One can also produce a laxative from this substance. I don't know any other uses to which it may be put. It has nothing to do with military requirements, neither directly nor indirectly. One cannot produce any military material plants. In Europe there are at least eight that I could name, probably even more.

Antraquinone is produced by various processes. At the beginning of the 1930's Farben granted a license to the French for a certain antraquinone process, which was suitable for the very small plant in Winnica, which produced only six tons a month, according to production capacity. This antraquinone was used for the production of a khaki dyestuff for the Polish military and other authorities. For this purpose antraquinone had to be produced in the country.

Q. Was the suggestion to dismantle the antraquinone machinery made by Farben or by the State Commissars?

A. As far as I know, this suggestion was made quite unequivocally by the two commissars. Farben had no interest in this small machinery, because in its own plants it worked with much larger units, so that the machinery would not have fit into the Farben machinery; and for the most part they produced according to a different process.

Q. Why did the commissars raise this question at all?

A. I don't know. Perhaps the Reich Ministry of Economics gave them instructions to secure important machinery. Apart from that, it was probably the way Mr. Schwab testified, that this machinery was to be taken away from the Russian line of demarcation, because they considered it an important plant secret.

Q. What happened to this machinery?

A. Unfortunately I cannot tell you that completely. From the documents introduced by the Prosecution one can see that this plant was at first to be leased. Instead of that, it was purchased, probably at the request of the Main Trusteeship Agency East. What finally happened to this machinery we have not been able to find out as yet. In Prosecution Exhibit 1161, in Book 56, a letter of 5 February 1941, a Director Baumann in Ludwigshafen is mentioned. This man is dead. He was the plant leader of the antraquinone plant in Ludwigshafen, who allegedly took a great interest in this machinery. But it seems that the machinery never arrived in Ludwigshafen, for when after the end of the war, all machinery had to be registered that had been brought to Germany from the former occupied territory, Ludwigshafen did not register this machinery because it was not there. I would assume that it stayed in the Boruta plant, but, as I said, I do not know.

Q. Now something else. You said that the ownership in the Winnica was one-half Farben and the other half French. In July 1941 Farben purchased the fifty per cent shares that the French held in Winnica. What was the reason for that?

A. That was in the course of the entire Francolor transaction. One factor may have been that by acquiring all the stock we wanted to end

the confiscation of Winnica and stop the trusteeship administration.

Q. Were the French agreeable to this transaction?

A. In July 1941 I personally conducted the negotiations for Winnica with the French in Paris, and, as I remember, they were in complete agreement. The fact that the khaki business had been eliminated for Winnica produced an economic situation in that enterprise that looked anything but rosy. And, as far as I remember, the French were not at all dissatisfied with being able to get out of that risk.

Q. That is probably enough for Winnica. It's now turn to Wola. Can you tell me any details about that?

A. No, I never saw that plant.

Q. Did you order that Wola should be shut down?

A. No; the suggestion did not come from me. The order was issued by the Reich Ministry of Economics.

Q. Beta oxy-naphtoic acid machinery is to have been removed from Wola. Do you know anything about that?

A. In my opinion, this is again a suggestion made by the trustee, based, I presume, upon general regulations of the government. You must consider that we in Farben did not even know that Wola had a plant for the production of betaoxy-naphtoic acid. The trustees found that out only after they made an inspection on the spot.

Q. Was that machinery of any particular significance for the Farben plants?

A. No, because again very small machinery is involved. In our plant where this product was made we worked on a much larger scale, and that operation was utilized to barely fifty per cent, during the war, since these dyestuffs then had a smaller significance. I believe that the securing of this machinery was again only a question of preventing their being sold cheaply to other people. That is a measure of the trustees. I would take that from the letter of November 1941, a letter from Farben to the Reich Ministry of Economics which reads, -
This is Prosecution Exhibit 1141, Book 55, page 98, of the German,

page 62 of the English; I quote, "The holding company would furthermore be entitled to remove the usable machinery from Wola - which by the way, is to be shut down - among them the new beta oxymercuric facilities to the Boruta plant, without changing anything in the property rights by the removal."

"If necessary, a lease agreement would have to be concluded about this machinery too, or it would have to be made sure that Wola creditors not be permitted to endanger the execution of this contract by foreclosure action."

Q. But Farben later purchased that plant? :

A. Yes. I have tried very hard to find out details and have turned to my former associates Dr. Struss, Dr. Locher and Dr. Giesler, who all unanimously told me that neither they--and certainly not I-- were active in that matter at all. From the affidavit of Dr. Hagenboecker, in Jaehne Document Book 3, Jaehne Document 43, Exhibit 19, I saw that Dr. Hagenboecker pursued his own personal initiative here. He wanted to have the machinery for experimental purposes. He sent a foreman from Offenbach to Poland to inspect the machinery. I had not know anything at all about that, to the best of my recollection. Neither did I know anything about the removal in 1944, since I was in Italy at that time.

Q. What about Exhibit 1157, which the Prosecution has offered in Book 56, on page 54 ff. page 22ff of the English, where it speaks about taking over the products of Wola?

A. These are dyestuffs intermediates from Wola stocks. Apparently the trustees could not utilize these stocks when they sold the Wola products in Poland, and, therefore, offered them to Farben. The documents that you mentioned are internal Farben letters to various plants and laboratories for the testing of these products as to their quality. As far as I remember, I learned of this event only through the documents. Whether Farben took over these products, I don't know.

Q. About Boruta. I want to ask you: Did Farben from the very beginning have the intention of buying Boruta?

A. No. I can assure you quite definitely that I never had this intention. The Wola dyestuffs plants were small and technically backward plants. I opposed the purchase of Boruta for a very long time.

Q. But it is not a fact that Farben later did acquire Boruta, nevertheless?

A. Yes, that is true. This is a case that happens sometimes, that one is pulled into something against his own will. I believe that was the way it was here. The documents also speak for that point of view. In Prosecution Exhibit 1136, Book 55, page 85 of the German and page 54 of the English, Mr. von Schnitzler speaks about the stocks which were to be utilized in the interest of the German economy.

Then, in Prosecution's Exhibit 1133, Book 55, on page 46 of the German and page 32 of the English, a file memo of the Commercial Committee meeting which I, however, did not attend, speaks of the point of view of the Commercial Committee which is to be transmitted to the two trustees: to found a holding company in Poland to administer the Boruta plant by way of trusteeship.

This holding company was never organized. Mr. Schwab has explained to us very vividly here how he tried with all means at his disposal to get money to keep Boruta operating. Finally he found the way out of Farben giving orders to Boruta and loaning the money to Boruta to fill these orders. The first of these orders was given in July, 1940,

and others followed.

In all of 1940 lease negotiations were conducted for the duration of the war, in the course of which the Main Trusteeship Agency East stated that a purchase might be considered. This is shown by Prosecution Exhibit 1144, Book 55, on page 109 of the German and page 71 of the English text. These negotiations again took a long time. Other interested parties put in an appearance, the Gutbrod brothers, for instance. Then, finally, in November of 1941, the purchase agreement was concluded.

Q. Then you changed your personal opinion about the acquisition of Boruta during the course of the negotiations?

A. Yes, that is correct. It was decisive for me that I wanted to avoid the plant's getting into the hands of laymen. That went against my grain as a technical man, because then Boruta would undoubtedly have collapsed.

Q. And what are the reasons for your assumption about the collapse of Boruta?

A. Boruta was situated in the Warthegau. The Warthegau had been made a part of German customs territory. That removed the high barrier protection that these plants had previously enjoyed. Boruta was not protected against the much larger German plants and could not compete with them any more.

Q. Did you have any legal misgivings?

A. No, I had no legal misgivings. The entire affair was checked over by the Legal Department Dyestuffs, which did not present any misgivings to me. The plant was not bought by the Polish State but by a German agency.

Q. Did you participate in the purchase negotiations?

A. Dr. Giesler, who was partly in the TEA office and partly in the plant Mine Corps, was commissioned by me, approximately at the end of 1940, to carry out an estimate of the value of Boruta at that time probably in order to determine the value of the lease sum. When the purchase was decided upon, Dr. Giesler made a plan, on my orders, of

how a rational expansion of Boruta could be carried out, and during the decisive negotiations with the Main Trusteeship Agency East in Berlin I presented these technical points of view. I have already testified to that during cross-examination.

Q. What was the content of this plan about the expansion of Boruta?

A. If we acquired Boruta we had to expend large sums of money to modernize it, to rationalize it, and to produce new things in this plant. For otherwise it certainly would not have been able to keep in operation. And that was the plan; we planned to start up a number of new productions and to modernize those productions that were already functioning.

Q. And what happened to the products of Boruta? Were they brought to Germany?

A. The Boruta was in the Warthegau, and the Warthegau was part of Germany at that time. But the dyestuffs practically all remained in the Warthegau, for Lodz is an important industrial center, and at that time the textile industry in Lodz was working very busily. Then we supplied this Swiss dyestuffs plant, Fabianide which Mr. Schwab mentioned, with intermediates, because the Swiss gentleman had asked us to help them to maintain their personnel during the war. Part of the intermediates, however, went to Germany.

Q. At one time you said that in the autumn of 1942 you visited Boruta. What did you do there?

A. After Farben bought Boruta, a certain Dr. Matsdorf, who had been appointed there by Dr. Schoener, became the plant leader. I didn't know this Matsdorf, and I wanted to see what he looked like. And on that occasion I also wanted to find out how the modernization was progressing.

Q. How long were you in Lodz?

A. One day.

Q. What did you do there?

A. In the morning I inspected Boruta, talked to Dr. Schoener and Dr. Matsdorf about the technical program, production, new plants, etc.

Dr. Natzdorf made a very favorable impression on me. He was a calm, objective technical expert. In the afternoon I then visited one of the largest textile enterprises in Lodz, because the textile article it produced interested me. On the next day I left again.

Q. Did you visit any Party agency in Lodz, or did you visit the office of the Reich Commissioner for the Strengthening of Germanian in the East?

A. No, I would never have thought of that even in my dreams.

Q. During your visit to Boruta did you notice any things that had to do with the consolidation or strengthening of Germanian?

A. I don't remember that these things were discussed at all during my visit to Boruta. This was an affair for the Party, after all, and I didn't interest myself in it.

Q. Did you know the Reich Commissioner for the Strengthening of Germanian in the East?

A. No.

Q. Do you know whether Farben at any time dismantled equipment from the former Polish State ownership of Boruta and brought it to Germany?

A. To the best of my knowledge, the answer is No.

Q. The documents mention a plant called Sarzyna, which the Boruta built on orders of the Polish War Ministry. Do you know anything about that? And particularly whether equipment was dismantled from this Sarzyna plant and brought to Germany for Farben plants?

A. To the best of my recollection, I have heard this name Sarzyna now from the Prosecution documents but it is possible that I read about it earlier. However, to the best of my knowledge, at no time was any equipment acquired by Farben from Sarzyna and brought to Germany.

Mr. Schwab too, has testified along these lines and emphasized that Farben had nothing to do with Sarzyna.

Q. In Prosecution Exhibit 1168, in Book 56, page 89 of the English,

a plant named Blizyn is mentioned. Do you know anything about that plant?

A. I did not know either, the Blizyn plant. I don't know anything about those events described in the document.

Q. Do you know of any other case in which Farben acquired equipment from Polish chemical factories?

A. No.

Q. To conclude your examination on plunder and spoliation, I want to ask you a general question. Did you at any time have wonder whether contracts about the lease or purchase of plants violated the principles of international law?

A. No, in these affairs I had to deal primarily with the technical facts; for the legal considerations there was the legal department of Farben. Thus, for instance, all the contracts referring to dyestuffs were worked on by the Legal Department Dyestuffs, without exception. All of the correspondence went through the Directorate Department Dyestuffs, which worked closely with the Legal Department Dyestuffs. The chief of the legal department was Dr. Kuevner, who repeatedly testified here as a witness. To the best of my conviction, he certainly would have warned me if he had detected anything that violated the law in those contracts. The contracts of that nature outside of the dyestuffs field were all closely worked on by the competent legal departments.

I would have opposed or rejected any contract if authoritative agencies or people had pointed out to me that those contracts might possibly violate existing International Law. Nobody told me that at any time.

DR. HERNDT: "r. President, I have one more very brief question about spoliation and then I will be finished. Would you permit me to ask that question before the recess?

THE PRESIDENT: Go ahead. Ask your question.

BY DR. HERNDT:

Q. Mr. for hear, the last question: Did you get any profit or advantages of a personal nature from those acquisitions and participations abroad?

A. No. My contract of employment provided that any income from commissions that came to me from the Aufsichtsrate and other boards, would have to be counted against my salary, and that was always done in these cases.

THE PRESIDENT: Gentlemen, it is time for recess.

(Tribunal in recess until 1045 hours.)

(AFTER RECESS)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: The defendants Bustefisch and Ilgner may attend the Commission hearing this afternoon if they so desire.

Were you through, Dr. Berndt?

DR. BERNDT: Your Honor, I have concluded my examination of Dr. ter Meer for the moment.

BY JUDGE MORRIS:

Q. Dr. ter Meer, would you tell me how many plants were involved in the Rhone-Poulenc concern? Were there more than one?

A. The firm of Rhone-Poulenc had its main chemical plant near Lyon. In addition to that there were a number of other plants; a large synthetic silk factor for example. I do not know whether it had any additional factories, because I never visited them. The main plant for pharmaceutical and chemical products was at Lyon, and I inspected that one once.

Q. And that, of course, was in the part of France that was not taken over by the German Army; is that correct?

A. These two factories I mentioned were located in the unoccupied territory of France.

Q. Now as to the Francolor situation, how many plants or physical properties were involved in the contracts which you negotiated,--the two contracts that you mentioned?

A. We are mainly concerned with four large plants. These were the two plants belonging to the firm Kuhlmann, the Oissel and Villers St. Paul factories. These two factories, at the same time, were the most important ones. Then there was a St. Denis factory, which belonged to a special company, and then there was the factory at St. Clair du Rhone, which belonged partly to the gentleman of Kuhlmann and partly to the gentlemen of St. Denis. I do not know exactly how the shares were distributed. As far as the other smaller factories included in the Francolor contract are concerned, the factory in Crois-and Vasquehal, a

textile enterprise, to which a small dyestuffs factory was affiliated, belonged to Kuhlmann. Then there was the factory Mabboux and Camell, in Lyon; the latter was quite insignificant from a production point of view. It was mostly a sales firm.

Then there was the Steiner factory at Vernon, which was an old French factory which had always produced some dyestuffs and in addition some other products.

Q. Were these plants in the territory occupied by the German Army?

A. The factory Mabboux & Camell at Lyon was also located in the unoccupied territory. The other two factories I mentioned were located in the occupied territory. I should like to distinguish clearly between the four main plants dealt with in the Francolor convention and the smaller factories. The smaller factories - Mabboux & Camell, Steiner, Crois-Vasquelal were very insignificant as far as dyestuffs were concerned.

Q. Were the larger plants located in the occupied territory?

A. Three of them were located in the occupied territory, Oiseel, Villers St. Paul, and St. Denis. The fourth and smallest one, St. Clair du Rhone, was in the unoccupied territory.

JUDGE MORRIS: Thank you. That's all.

THE PRESIDENT: Are there any other questions by Defense counsel before we proceed with the cross-examination of the defendant?

Apparently not, so you may cross examine, Mr. Prosecutor.

CROSS EXAMINATION

DR. ter MEER

BY MR. SPRECHER:

Mr. President, just so we can make our plans, and Defense Counsel can also act accordingly, perhaps to help you in supervising the situation, I can state that we will have no questions on Poland, and that I will have, depending on the nature of the defendant's answers, approximately 13 or 14 questions concerning Francolor, and Mr. President, if there is the slightest doubt at any time that these questions are not helpful, we would be very glad to hear about it immediately, because we don't press

very much of this at this time!

Q. Now, Dr. van Meer, in your cross examination, I want to get back to a very few contemporaneous documents of the time in question. With respect to the acquisition of the oxygen plants in Alsace-Lorraine, I understood you to testify that you had had little, if any, connection with the requisition or development of these plants.

Now I show you NI 4860, which will become Prosecution Exhibit 2192, and I ask you to look at the extract of those TEA minutes, the TEA minutes of 13 November, 1940, where there is a heading, "Expansion of I.G. Oxygen Plants", by the defendant Jaehne. Isn't it true that in connection with the credit, and the credits which would be needed for oxygen plants to be required, you had such discussions in the TEA?

A. During that meeting of the TEA on 13 November, 1940, a report by Mr. Jaehne is recorded, on the development of liquid oxygen in the East and the West. With respect to the West, he states that plants at Strassburg, Merlenbach, and Dietsenhofen are planned. Furthermore he states, and I quote: "Among the credits on hand is a sum of 3 million Reichsmarks to serve principally for the enlargement of existing oxygen plants". That does not show that we are here concerned with the sale of originally French property. If, however, I said that I had practically nothing to do with it, I did not so much refer to the TEA meeting, but to the Vorstand meeting, where that purchase was also reported.

Q. Now, you testified at some length on direct examination concerning the nature of the negotiations between leading officials of I. G. Farben and the officials of the French mother firms of Francolor. Among other things, you testified concerning Ambassador Hammen's conduct at the first meeting of 21 November, 1940. Now I would like to show you our NI 790, which will become Prosecution Exhibit 2193. This is a letter which was found in the files of the defendant Schnitzler, it is addressed to the defendant Schmitz, and it is dated the very day on which that meeting was held. Would you please read the first paragraph?

Q. Did Dr. von Schnitzler send you a copy of that letter at the time?

A. I don't know. I cannot say.

Q. Does the first paragraph which the defendant Schnitzler wrote there strike you as reflecting his opinion at the time, or was this possible some window-dressing for Dr. Schmitz?

THE PRESIDENT: Mr. Prosecutor, that is rather calling for the reading of the mind of the —

MR. SPRECHER: I beg your pardon. I think it is an unfortunate question.

Q. Does the opinion as stated in the first paragraph differ from what the defendant von Schnitzler told you at the time as to the opinion he held of Hemmen's conduct of the first meeting?

A. Counsel, if I said in my testimony that we executives of Farben were rather unpleasantly moved by the manner in which Hemmen appeared, this is based on a very positive recollection of a conversation on our way back from Wiesbaden to Frankfurt by car. In my opinion this conversation could have taken place only between Mr. Schnitzler and myself, for Mr. Waibel lives in Wiesbaden and probably stayed there for the night. We were displeased about the rather pronounced way Mr. Hemmen spoke. That is my recollection.

Q. Now I'd like to refer to the meeting on the next day. That is on 22 November 1940. Is it not a fact, Doctor, that Duchemin vigorously contended that the proposals made by Dr. von Schnitzler for Farben at the end of that first meeting were in the nature of a dictate to the French? "Diktat" is the German word used.

A. I believe I can recollect that expression's having been used. Let me check it.

Q. Well, perhaps I can help you. I will show you NI 15240, which will become Prosecution Exhibit 2194. This is a very short extract from Duchemin's book "History of a Negotiation," from which Dr. Siemers has already introduced a short excerpt in Schnitzler Exhibit 49, pages 1 and 2 of Schnitzler Document Book 3. Does that short excerpt refresh your recollection?

A. I can't really say whether that expression was used; but as I said before, it's quite possible. I have only the material which originated from our own men. Whether that word is used there I don't know at the moment. I'd have to look it up.

Q. Don't you have any recollection of Duchemin stating that he thought Farben was trying to impose -- impose an alliance upon the French?

A. The French naturally didn't agree with our proposals on the very first day, that is quite correct.

Q. Now, Doctor, isn't it true that the Farben file memos of the meeting of 22 November 1940 -- that is the second meeting when only the French and German chemical representatives were present -- isn't it true that Farben's file memo, official file memo, on that conference, was sent

to all the Vorstand members?

A. I can't see it from this copy submitted by the Prosecution. I remember, though, having read somewhere in the documents that the memo about Farben's claim to leadership was circulated in the Vorstand.

Q. Well, in order to refresh your recollection more clearly about the basic file memo, I show you NI 15225, which will become our Exhibit 2195. This is a letter from the defendant von Schnitzler and the deceased Vorstand member Waibel to all members of the Vorstand, dated 28 November 1940.

A. Yes, that is correct.

Q. Now, I have one more question about Ambassador Hennen and Farben, in connection with your testimony concerning the alleged give and take between Farben and the leaders on the French dyo-stuffs industry. Now, after the French and Farben leaders had come to an agreement concerning the basic provisions of the Francolor agreement, isn't it a fact that Ambassador Hennen was informed by Farben that "The result of the negotiations with the French dyo-stuffs industry has fully met our demands." That or that in substance.

A. I can answer the question neither in the affirmative nor in the negative. I just don't know, Mr. Sprecher.

Q. Well, do you recall that Hennen was informed by anyone from Farben that without the outstanding help and advice of the Reich agencies in Wiesbaden and in Paris, Farben's demands would never have been met by the French?

A. I don't know whether any such document exists. I really can't tell you from memory.

Q. To assist your recollection I will show you NI 15227, which will tell you from Prosecution Exhibit 2196. This is a letter from the defendant von Schnitzler to Ambassador Hennen, dated 17 March 1941, which was fairly well along in the negotiations, and I ask you to look at the second paragraph.

A. Yes, Dr. von Schnitzler wrote that.

Q. Now, you have confirmed certain testimony which the defendant Ambros made, as I understood it, and which was to the effect that representations made to the Reich authorities with respect to the military importance of Francolor production was window-dressing of some kind or other. Now, in that connection we want to introduce an internal Farben memorandum from Borgwardt to the defendant Kugler and Dr. Eckart, who has been mentioned in your testimony. This is our HI 15233, which will become Prosecution Exhibit 2197. This is a very short little memo. Please read it.

A. This letter says only —

Q. Just a moment, Doctor. I haven't asked you my question. I just wanted to be sure you read the letter. Now, is there any window-dressing about that?

A. No, that is no window-dressing. That is quite in accordance with what Dr. Ambros and I testified on that question, that Centralite, Diphenylamine, and Alpha-Mononitronaphthalene were delivered. Those products were considered direct Wehrmacht needs, although they actually are not explosives but can only be processed into explosives. Dinitrochlor-benzol was not delivered, as far as I remember. At least not in large quantities. Alkydial is merely paint. It is not a Wehrmacht product. I see no contradiction between my or Dr. Ambros's testimony and this report here.

Q. Now, along this same line, and this is my last document to you. I want to show you HI 15259, which will become Prosecution Exhibit 2198. These are the minutes of the Technical Committee of Francolor — of Francolor, not of Farben — on 5 October 1942, which you and the defendant Ambros attended. The defendant Kugler's initials are at the top. The first heading is "Position with regard to transfer of manufacturers." The first question deals with the second paragraph, Doctor, "As coal deliveries became more and more uncertain they have to adapt themselves to the situation, that is to say, to the needs of the Wehrmacht." Did that also mean in fact that Francolor production had to adapt itself to the needs of the Wehrmacht?

A. Yes, that is exactly what Dr. Ambros and I have testified. These pure dye-stuff factories, to a certain degree, had to be adapted to the needs of the Wehrmacht; and in the following sentence it is stated, "Mononitronaphthalene, diphenylamine, and centralite — I don't believe dinitrochlorbenzol was delivered — for the needs of the Wehrmacht. And then come the other products: phenyl beta, naphthylamine, accelerators" — these are vulcanization accelerators — "Kaurit glue, monochloroacetic acid, glycerophthalic resins, acids from phenol and formaldehyde" — it should read synthetic here — "and phenol for the civilian need." It was a fact that a few products of significance to the military economy were named first, but the main production was used for civilian purposes, which is clearly proven by the figures I have already given.

Q. Doctor, in connection with Judge Morris's question, it occurs to me that perhaps the very last paragraph of this document might be of some interest. That is the heading under "Factory in Riese" — R-I-E-S-E. Am I correct, Doctor, in stating that that factory at Riese was one of the French dye-stuffs factories which was closed down during the German occupation, pursuant to Article 22 of the Francolor Convention?

A. May I ask you on what page that is?

Q. That is on the last page, the very last paragraph. I'm sorry. Under the heading, "Factory in Riese."

A. As far as I remember, the factory in Riese was a Belgian factory, not a French factory. This very small factory was closed by the French and the installations were sold by the owners to Warbon, but I really would have to ascertain it.

Q. Well, will you look at the last sentence, where it says the offer will be submitted again to Kuhlmann. Doesn't that indicate that it was a Kuhlmann concern?

A. The factory in Riese?

Q. Yes.

A. Yes, Kuhlmann.

Q. I don't understand your connection to the Belgian factory then.

A. Kuhlmann had a small dye-stuff factory in Belgium.

Q. I see.

A. And this factory ceased production, and the installations and all usable equipment was sold to Farben; I think this paragraph refers to that fact, but I would have to ascertain it.

Q. Did Farben bear the cost of dismantling that plant?

A. According to the version here, yes. It says here, "The equipment was sold for 60,000 Reichmarks, and Ferben undertook the dismantling."

Q. Just to be certain I have your position, is this one of the factories which was mentioned in Article 22 of the Francolor Convention, which mentioned those factories which were to be closed down?

A. I don't believe that the factory in Rixens was named in this article of the Convention. Other factories are mentioned there, and I don't remember the name of Rixens. I must ascertain whether Rixens was actually the name of the factory in Belgium. I don't remember it now.

Q. Now, in response to question by Dr. Siemers concerning Dr. von Schnitzler in the last part of 1945, at Krensberg Prison, you testified that Dr. von Schnitzler was put in the same room with you in Krensberg when he came there, is that right?

A. Yes.

Q. Did he stay in the same room with you, Dr. ter Meer?

A. I believe he stayed there for about six months.

Q. And did he ask to be removed from your room?

A. Yes.

Q. And was that because you had been criticising him for certain things?

A. Yes, we had a violent argument.

MR. SPEECHER: No further questions.

DR. HERNDT: Your Honors, I believe that I am justified in requesting that Dr. ter Meer be given a chance to speak on those documents which have just been submitted. Among them there is a document which extends to eight pages and which is on very thin paper and hardly legible. There are letters among them, as for instance the last one, Exhibit 2198, extending to eight pages and very difficult to read on thin paper. There are letters which bear no signature, neither in the original, which was handed to the Secretary General, nor in the copies which were distributed

to us. I don't think that the Prosecution will object if I put these questions to Dr. ter Meer after having discussed the documents with him during a little recess.

THE PRESIDENT: The Tribunal is not impressed with the thought that there is much that ought to require any considerable delay in order that you might conduct your redirect examination. The witness's answers have been, in the main, very clear and positive. However, the documents, some of them, are lengthy, and you are entitled to a reasonable opportunity to familiarize yourself with them, and Dr. ter Meer is certainly entitled to time to know the contents of the documents. By that I mean to suggest, Dr. Berndt, perhaps this afternoon sometime after the noon lunch, could you take the matter up then, do you think, and dispose of it? We will give you that time over the noon hour that Dr. ter Meer can read the documents, and we would like, if you can, to close this matter up today — sometime during the day. Will that be agreeable with you?

DR. BERNDT: Yes, Your Honor.

THE PRESIDENT: You may step aside then, Dr. ter Meer. Just a moment. Perhaps Dr. Siemers wants to ask you a question. I am not sure. Did you have anything further with Dr. ter Meer, Dr. Siemers, at this time?

DR. SIEMERS: Your Honore, I should like to object to the introduction of two documents. Since Dr. ter Meer may perhaps add something to these documents, I should like to ask that Dr. ter Meer remain in the witness stand.

THE PRESIDENT: Very well.

DR. SIEMERS: I object to the introduction of Document NI 790, Exhibit 2193, and I ask that it be stricken. If I understood Mr. Sprecher correctly, he stated that this was a letter by Dr. von Schnitzler to Dr. Schmitz. I have the so-called original before me, which is a photostat bearing no signature and no initials.

THE PRESIDENT: Well, that objection is sustained, unless the

Prosecution asks for the privilege of supplementing its evidence as to the competency.

MR. SPRECHER: Mr. President, it will be very simple to do. I think the certificate shows that this document was taken from I. G. Farben Griesheim Control Office files. We will add to that certificate to show that this came from File Number 17 of the defendant Schnitzler's personal files.

THE PRESIDENT: Mr. Prosecutor, does the statement you just made with reference to the source of this document appear in your certificate that is now on file?

MR. SPRECHER: It would appear that it came from the Griesheim Document Center, but the SEA, of which the defendants have long since had copies since this is NI 790, show that this was taken from Schnitzler Personal Files Number 17 and Mr. Hauptman up above who wrote this analysis is available to make a personal certification if necessary.

THE PRESIDENT: The trouble is the assumption on the part of prosecution that this was a letter written by the defendant von Schnitzler. There is nothing in the document to so indicate, and conceding that it is sufficiently established that it is a part of the Farben files, nevertheless it is somewhat of an assumption to assume that Dr. von Schnitzler wrote the letter. Now, we do recall that the Prosecutor so stated when he offered it, and he asked Dr. ter Meer some questions assuming that von Schnitzler had written the letter. Now, that part of it, is quite questionable. If it is pertinent to any inquiry, there perhaps is a sufficient showing that it is a Farben document because of the source from which it came. That is the trouble we are in.

MR. SPRECHER: Mr. President, since Dr. von Schnitzler has not taken the stand, naturally we can't put the exact question to him. I didn't think there would be any question about it, given the circumstances or even the nature of the words, because I know quite a bit about Dr. von Schnitzler's letters. I didn't ask the question exactly to the defendant ter Meer, but I think you understood from his answers that he immediately

assumed that it was.

THE PRESIDENT: Well, in your question you assumed it, and perhaps it was justified in him in assuming that you were correct.

MR. SPRECHER: Well, it does seem to us that we have at least established it sufficiently so that this is evidence of probative value dealing with someone, who can address the defendant Schmitz at the end with "Ihr" which is rather familiar in the German language, did write to the defendant Schmitz on that same day from Frankfurt and indicated what the view was as to how Farben was reacting — how these officials were reacting — to Hammen.

THE TRIBUNAL: Well, the objection to the document will be overruled upon the theory that there is a sufficient showing that this was a document in Farben files. All references in the interrogation and answer, assuming that it was a letter written by Dr. von Schnitzler, are ordered stricken unless there is some showing, direct or circumstantial, that festens the authorship of the letter on the defendant von Schnitzler.

DR. SIEMERS: Your Honors, beyond that, would you please state that it has not been proven that the letter was sent off?

THE TRIBUNAL: I think I said that it was admitted upon the showing that it was a document found in Farben files. Now, for whatever that is worth, that is established. The Tribunal will not assume that it was mailed or dispatched, nor will the Tribunal assume who wrote it, unless there is a further showing. It's just a paper found in Farben files, and under the rulings that we have made during the course of this trial we will overrule the objection, but we will not assume from the statements made in the interrogation that it was written by the defendant von Schnitzler, unless during the course of the trial, yet, there is some showing to that effect.

DR. SIEMERS: I would be grateful to Mr. Sprecher if he would submit a new certification. I think that the certification is not fair, because it is expressly certified that this was a letter by Mr. von Schnitzler —

"Letter from Schnitzler." This is contained in the official certification.

THE TRIBUNAL: That is not in evidence before the Tribunal, and the Tribunal is unconcerned with the matter of certification, except insofar as it may throw light on the authenticity and admissibility of the document. Your client nor any of the other defendants is bound by the conclusions in the certificate that the letter was written by some individual.

MR. SPRECHER: Mr. President, no one is in a better position than Dr. Siemers and some of the lawyers in this room to find out the truth, if they are interested in it. We can tell exactly where this file came from.

THE PRESIDENT: Mr. Prosecutor, may I just remind you it's a good thing there is not a jury here. Your remarks might be very serious by indirectly commenting on a subject it is not proper to discuss, and that is the refusal or failure of a defendant to testify. There is nothing before the Tribunal. Gentlemen, we have ruled on that. Go on to the next matter here.

DR. SIEMERS: My second objection, Your Honors, is directed to Document NI-15227, Exhibit 2196. I have here the so-called original, which was filed with the Secretary General, a photostat copy. This photostat copy rather conspicuously bears the heading, and I quote: "Copy of a letter to Envoy Dr. Hammen of 17 March 1941."

It can be seen from that quotation that this is not a photostat copy of the original or a carbon copy. Even more conspicuous is the fact that on this photostat copy, under the typewritten words "signed - signature," there is a handwritten note in the English language, "Signed, v. Schnitzler." There is no typewritten signature; there is no initial; but English handwritten notice says, "Signed, von Schnitzler."

I think that I am justified in objecting for these reasons.

MR. NEWMAN: May I shortly tell the Court this: The words in the original copy "SIGN" are manifestly not the English word "signed," because it would then be not explainable why the "ed" is missing. But in German you have a similar word "Signiert," and this word "Signiert," which means "subscribed by," is in the normal way abbreviated as we find it here "SIGN (period)."

THE PRESIDENT: Let the Tribunal see the original exhibit and the accompanying certificate, please.

MR. SPRECHER: Your Honors, that came from Kugler's original files in Room No. 5 at Griesheim Document Center, and we will furnish a further certificate to that effect; and we know exactly who found it and when.

THE PRESIDENT: Now, there does appear to be some discrepancy between the English copy and the original certificate—original document—with reference to what is urged on behalf of the Prosecution as relates to the signature. We shall correct our English version of the document to conform to the original document on file; and you gentlemen may argue the significance of the document at the proper time. With that correction the objection is overruled.

DR. SIEMERS: May I put one more question to Dr. ter Meer?

THE PRESIDENT: Yes.

RECIPECT-EXAMINATION (CONT'D)

BY DR. SIEMERS:

Q. Dr. ter Meer, you have just listened to this debate. According to your recollection, was it customary in Farben's correspondence to make a remark under a letter, "Signed von Schnitzler," or "Signiert, von Schnitzler," to use the letter "SIGN"? Do you have the document before you?

A. The use of the abbreviation "SIGN," as far as I know, is quite unusual in German usage. The abbreviation mostly used for "signature" is "GEZ.," for "Gezeichnet" (signed). I can't say that the expression "Signieren" actually means "sign." Predominantly "signieren" means something else. I would never myself use the abbreviation "SIGN" instead of "GEZ.," because it isn't customary and not intelligible to most readers. In my opinion, this is an abbreviation of the English word "signed." How it gets there I don't know.

Q. Dr. ter Meer, do you remember having seen letters or copies of letters in Farben correspondence which bear the note as in this case "signed," (signature)" (Gezeichnet, Unterschrift) on one line and then another note "SIGN (period)" and then the name?

A. No, that is never done by us.

Q. Thank you; I have no further questions.

THE PRESIDENT: Anything further from the defense counsel, with the reservation that Berndt made? Apparently not. Anything from the Prosecution?

MR. SPRECHER: We will see that the actual original carbon copy is brought to Your Honors, since Dr. Siemers has raised this issue. We are always pleased to do that.

RECROSS-EXAMINATION (Cont'd)

BY MR. SPRECHER:

Q. Now, Dr. ter Meer, referring to Prosecution Exhibit 2196, which is the document addressed to Mr. Envoy—Mr. Hemmen—do you recall ever having seen that document at any time before 1945?

A. You mean NI-15227?

Q. That's right.

A. No, I don't remember having seen this letter here.

Q. Can you tell anything, from looking at the letter, as to who wrote it?

A. This letter could of course have been written only by someone who knew Mr. Hemmen closely. It refers to a conversation at the Potsdamer Bahnhof. People would only converse at the Potsdamer Bahnhof if they had met before and if they met there accidentally again.

DR. SIEMERS: Your Honors, I object to this type of questioning. This merely asks for an opinion; it doesn't ask for facts to which the witness can testify.

THE PRESIDENT: The objection is sustained.

RECROSS-EXAMINATION (CONT'D)

BY MR. SPRECHER:

Q. Now, with respect to Prosecution Exhibit 2193 (that's NI-790) I ask you simply whether or not there is anything about that copy of what purports to be a letter, that indicates to you who drafted or sent that letter.

DR. SIEMERS: I object for the same reason. The document speaks for itself. Mr. Sprecher can argue from the document just as well as I can.

MR. SPRECHER: Mr. President, I think I have a perfect right to ask him whether or not he, a Vorstand member for more than twenty years, and the Defendant von Schnitzler, and other persons who might have written such a letter ending with the familiar word "Your" at the end.

THE PRESIDENT: Well, so far as the contents of the letter are concerned, they speak for themselves; and what they show is a subject of argument and perhaps differences of opinion among counsel. If there is anything peculiar or characteristic about the letter from which the witness can deduce or express an opinion as to who wrote it, he may do so. We don't care to have him discuss the contents, because we can read that,

but if there is something we cannot see--there may be some marks, some indications, some peculiarity about the letter, from which he can form an opinion as to who wrote the letter--he can tell us. The objection is overruled.

RECROSS-EXAMINATION (CONT'D)

BY MR. SPRECHER:

From the contents of this letter it becomes apparent to anyone who knows the situation that it originates from Herr von Schnitzler.

Q. Thank you very much.

REDIRECT-EXAMINATION (CONT'D)

BY DR. SIEMERS:

Q. Dr. ter Meer, do you know whether this letter was sent off?

A. No, I know nothing about that. It is my personal impression that I actually never saw the letter. Of course, today I can't say that with certainty. At any rate, I don't remember the letter, and I can't say whether it was sent off or not.

Q. Are copies of letters initialled in Farben offices, or in the Frankfurt office; or is it the practice to type the name?

A. You mean on the copies?

Q. Yes.

A. As far as I know that was a customary procedure. There were various methods by which to do that. Many men put their own initials right on the copies, in other cases there was a stamp which was put on the copies, and sometimes the name was typed. As far as I was concerned, I always demanded that copies which had some essential contents always bear the initials of the sender. I'm not referring to insignificant matters. I don't know how Mr. Schnitzler's office handled these matters.

Q. Since you are giving your opinion, could this perhaps be a draft, since it doesn't bear a signature--that is, a draft which was not sent off?

THE PRESIDENT: Well, perhaps the judgment of counsel or even of the Tribunal may be as good as that of the witness on that score. Unless he

knows that it was a draft and not an original, he couldn't throw any light on that subject. If he does know, he can tell us, but if he's just deducing from a copy, we can do that the same as the witness.

BY DR. SIEMERS:

A. Naturally I can't make any statement about that. I said that I don't remember the letter; therefore, I don't know what it was.

Q. No further questions.

THE PRESIDENT: Now, apart from the reservation made by Dr. Berndt, to perhaps interrogate the defendant a little further after the noon recess, are there any other questions to be asked of Dr. ter Meer by defense counsel or by the Prosecution? Apparently not. Then, with that reservation, Dr. ter Meer, you may step aside. (THE WITNESS IS EXCUSED FROM THE WITNESS STAND)

DR. SIEMERS: Dr. Siemers counsel for Dr. von Schnitzler.

With the permission of the Tribunal, I shall continue with my presentation of evidence.

Your Honor, for the record: before starting with Book VI, I should like to refer to Book V, which was submitted on Friday, and correct one mistake there. Document No. 83, Exhibit No. 87, Page 13 of the document book, contains a mistake which distorts the sense of the document. That mistake is found in the original and in the copies. It says, and I quote: "For the support of Farben it was agreed in 1941, between Francolor and Farben, that a storage agreement be made with respect to 8,000 tons of dyestuffs." The entire context and the other documents show clearly that it is stated here accidentally, "For the support of Farben." It should read, "For the support of Francolor," or "for the support of the Francolor plants." I shall try to get the official correction, but, in my opinion, this is clear from the entire context. Perhaps Mr. Sprecher will stipulate.

MR. SPRECHER: I'll stipulate that the affiant Wenk meant to say Francolor and not I. G.

THE PRESIDENT: Very well; the record will be considered corrected in that regard.

DR. SIEMERS: May it please Your Honors, I shall now start with my document books which deal with the basis for Count Two of the Indictment, the use of the economic power of occupied territories, so-called spoliation.

Schnitzler Document 99 will become Exhibit No. 99. These are the regulations of the Hague Rules of Land Warfare. Your Honors, it is very difficult for defense counsel to obtain their texts from the libraries. For that reason I have submitted these Hague Rules of Land Warfare in their entirety, which had not been offered by the Prosecution, because I am interested in both the preamble, and a number of miscellaneous articles. In view of the documents which I shall submit later, I should

merely like to refer to those articles which I shall particularly need for my legal purposes--that is, Article 3, on Page 4, according to which the belligerent party is obligated to compensate for any damages. This refers to the question of whether or not claims can be lodged against private persons.

In Article 23 of the supplement (that is on Page 15 of the document book), we have an important statement under "g." The Tribunal will remember that the Control Council Law does not contain a definition of the word "spoliation." Consequently we have to resort to the Hague Rules of Land Warfare. Here we don't have a proper definition, but we have a certain indication as to the meaning of the term: It means "to destroy or seize enemy property, unless such destruction or seizures be imperatively demanded by the necessities of war."

MR. SPRECHER: Mr. President, I think we're having a preliminary brief rather than the presentation of evidence.

THE PRESIDENT: Well, that is argumentative. Now, Dr. Siemers, you may introduce your documents, and if you think that a particular part of an extensive document will be of importance, or you will rely upon certain features of a document, it's proper for you to call our attention to it so that we can mark it in our books; but let's leave the argument of the case until we reach the argument, please. Go ahead to your next document.

DR. SIEMERS: The next document, Schnitzler Document No. 100, will become Schnitzler Exhibit No. 100. This is the Atlantic Charter of 14 August 1941, signed by Roosevelt and Churchill. It contains the words: "Their countries seek no aggrandizement, territorial or other."

Document No. 101, Exhibit No. 101, is Control Council Law No. 10, Article 2, 1a and 1b. The Control Council Law does not contain any definition of the term "plunder." It merely refers to an "infraction of the laws and customs of war," which is the Hague Rules of Land Warfare.

Document No. 102 will become Exhibit No. 102. This is a legal opinion by the famous expert on International Law, Dr. Herbert Krauss,

concerning the criminal responsibility of private persons' in cases of violations of International Law.

MR. SPRECHER: Mr. President, so far as I know, one of the most charming people I know is Dr. Krauss, but I certainly do not think that an opinion running for all these fifty pages, which converses up and back a lot of questions of law by a man recently—

THE PRESIDENT: We shall mark that document as for identification, so that counsel can use it, if he finds it proper, in his argument or in his briefs, for whatever it may be worth. If it is the opinion of an expert, it would be persuasive with the Tribunal. It might have been used even without being put in the document book.

MR. SPRECHER: Perhaps, then, I should indicate that Dr. Krauss is around here—is that not true, Dr. Siemers—as a defense counsel?

DR. SIEMERS: Professor Krauss was an associate counsel in the IMT trial. He did not participate in the further trials as defense counsel. By order of the American Military Tribunals he was active in the editing of the official trial record of the IMT.

MR. SPRECHER: That's correct.

THE PRESIDENT: Very well.

DR. SIEMERS: I thank the Tribunal for its ruling/ I might just mention that such documents were accepted by the other Military Tribunals, in both the Flick and the Krupp cases. I asked to have this document given an exhibit number because this legal opinion contains a number of excerpts from utterances on these questions by well-known personalities here in this courtroom and throughout the world. Among others, there are Stimson, Justice Jackson, the French Chief Prosecutor Demontague, the Russian Prosecutor Prokowsky, the Viennese expert on International Law Kelchen. Furthermore, there are utterances by the Hague Court. All these statements indicate that these personalities represented the point of view that private persons cannot be indicted. This is true, in particular, with respect to the decision by the Hague Court, contained on Page 21. I might state that in the Flick Trial - General Taylor.....

THE PRESIDENT: Dr. Siemers, I don't want to appear to be impatient with you, but, after all, that's argumentative material; and you now have the document in a situation where you can use it, to your full extent, in your briefing and in your argument. It's not proper that the presentation of the evidence should be used as a substitute for argument. I think you have done as much as you're entitled to do with respect to this document. The Tribunal will be very happy to have you discuss it if you think it will help us in the consideration of the case. I'm only concerned that we do not use the presentation of the evidence for argumentative purposes.

DR. SIEMERS: Schnitzler Document No. 103 will become Exhibit No. 103. It's a decree of the Fuehrer and Reich Chancellor concerning the Occupied Polish Territories, dated 12 October 1939.

It contains the appointment of the civilian administration in Poland. Please note that on page 91 the preamble to this law conforms exactly to the wording of Article 43 of the Hague Rules for Land Warfare. With respect to the relevancy of this document, I might point out that it concerns the subjective point of view, for the industrialists knew only what Hitler promulgated officially.

Schnitzler Document #2 has already been given Exhibit 3 for identification; I ask that it now receive a proper exhibit number. I submitted it to the Commissioner during the cross examination of Dr. Schlotterer. It is a decree of the Fuehrer with respect to the administration of the newly occupied Eastern territories, dated 17 July 1941. The preamble again conforms to Article 43 of the Hague Rules on Land Warfare.

MR. SCRECHER: Mr. President, would you put a question mark beside both 103 and Exhibit 2, in that they mention only the preamble?

THE PRESIDENT: Very well.

DR. SIMERS: I didn't quite understand that.

THE PRESIDENT: Counsel was asking us to note that they were not agreeing with your analysis of the document in your index. The document will speak for itself. We have indulged that practice wherever counsel wanted to call it to our attention.

DR. SIMERS: Document 104 will become exhibit 104. This was a prosecution document in the Flick trial. It is the decree concerning the special economic assets in the Occupied Eastern Territories, dated 28 May 1942. I call your particular attention to paragraph 2: "The special economic assets are to be administered in trusteeship. Sales will require the approval of the Reich Minister for the Occupied Eastern Territories."

I refer to this matter because later documents will show that, contrary to the assertions of the Prosecution, the British Military Government, for instance, holds the same point of view today, with respect to the position of a custodian that under certain circumstances sales are permissible.

Document 105 will become Exhibit 105. This is the first implementation order of the previous decree.

Document 106 and 107 will be Exhibits 106 and 107. These are the third and fourth implementation orders of the same law, the law on the disposition of the special economic assets in the occupied Eastern territories. I put these into evidence for the sake of completeness.

This brings me to the end of Document Book VI, and I shall now turn to Document Book VII.

Your Honor, I must apologize. The Secretary General has just informed me that I made a technical mistake. I started in this document book with #99. That was a mistake. I should have started with 102. Unfortunately, the numbers are all wrong. Please excuse me.

THE PRESIDENT: It won't take long to change them, and we'll help you.

99 should be 102, is that correct, Dr. Siemers?

DR. SIEMERS: Yes, 102.

THE PRESIDENT: Document 100 should be 103; 101 should be 104; 102 should be 105; 103, 106; 104, 107; 105, 108; 106 should be 109; 107, should be 110; and your next document will be 111.

DR. SIEMERS: Please forgive me.

I now turn to the next Document Book No. VII. Document 108 will be Exhibit 111. This is an excerpt from the so-called Morgenthau Plan. I am submitting it only because I shall need it for my legal arguments and for purposes of defining the term "utilization of the economic capacities of occupied territories" and for the definition of "occupied territories" and "spoliation". This is Exhibit 111.

The next document, 109, will be Exhibit 112. This is a directive of the United Chiefs of Staff, the so-called JCS 1067, to the Supreme Commander of the American Occupation Forces, Eisenhower, dated April 1945. I submit this document because I shall need it also for my arguments. The preamble contains an indication that Germany is occupied as a defeated enemy state. That is on the basis of the Hague Rules of Land Warfare, at

furthermore indicates that no steps are to be taken in Germany with respect to the economic construction of the country and that German economy was not to be maintained or strengthened.

MR. SPEECHER: Mr. President, there is a lot of paper in the next three books, and we thought perhaps an objection at this time would save a lot of trouble. Beginning with Schnitzler Exhibit 111 and running on, with very few exceptions, we think that these documents have utterly no place in this case.

Now, if you will permit a short survey of our grounds for objection it will save the necessity for numerous individual objections, and I think, as compared to the amount of legal argument that has been taken up in other cases where Dr. Siemers has done the same thing, we'll probably come out better in the long run.

Firstly, these documents principally have to do with Allied policy after the unconditional surrender of Germany with respect to German property or German industry.

Now firstly, the Allied occupation of Germany took place after an unconditional surrender. After May, 1945, there were no longer any armies of Germany or former European allies in the field attempting to reconquer either German territory or territory previously occupied belligerently by Germany.

These facts and their legal consequences were considered and decided upon by Tribunal III in Case No. 3, the so-called "Justice" Case, in its decision of 3 December 1947, Transcript 10617 ff. After citing numerous authorities on the legal questions here involved, Tribunal III decided: "The Four Powers are not now in belligerent occupation or subject to the limitations set forth in the rules of land warfare." Transcript 10,620.

We request that the Tribunal take judicial notice of the reasons advanced by Tribunal III in its judgment as to why the evidence of the type which Dr. Siemers now seeks to set forth is even beside the point for purposes of argumentation. The body of international law crystallized

and codified in the Hague Convention are rules of land warfare.

DR. SIEMERSI: Counsel please repeat the last sentence.

THE PRESIDENT: Mr. Spracher, will you repeat your last sentence?

MR. SPRACHER: We request the Tribunal to take judicial notice of the reasons advanced by Tribunal III in its judgment, on the theory that we believe these materials are not even properly cited for purposes of argument with respect to any issues in this case. The body of international law crystallized and codified in the Hague Convention are rules of land warfare. They place limitations upon the treatment of property during a belligerent occupation whilst there are still armies of the opposing countries in the field. As to the decisive importance of armies still being in the field and still attempting to restore the occupied countries to their true owners, we refer to the decision of the I.T., Volume I, page 254, of the official text.

Hence, the body of law which was encompassed in the Hague Convention and since developed in this field does not apply to the present Allied occupation, and similarly, the conduct and policy of the Allied powers or any of them after the German unconditional surrender has no possible bearing on the question of German spoliation of the countries it occupied between 1939 and 1945. The occupation of Poland and the other countries which fell victim to German aggression remained a belligerent occupation, precarious in character, as the IMT found, while opposing armies were still in the field seeking to repel the invader.

Secondly, the Allied policy and practice in occupation involves at least three elements which distinguish it from the belligerent occupation of Germany between 1939 and 1945:

(a) The control of the economic and military potential of defeated nation which twice in a generation invaded the lands of its neighbors and twice unleashed the carnage of world war.

(b) Restitution and reparations to the victims of aggression, whose property and manpower were either destroyed or else incorporated into the general German military economy in its waging of aggressive war;

(c) The exercise of the ultimate sovereign power of government for Germany after the end of actual warfare. This point is also thoroughly developed in the Justice decision, Transcript 10641-10645.

Thirdly, we could submit a hypothesis upon which we do not have to rely here, namely, that Germany, under the Kellogg-Briand Pact, was bound to consider war as outlawed and did not and, therefore, as an aggressor, is in no position now to attempt to make a construction of international law which it itself had torn asunder; but on the basis of the first two arguments we have made above, we want to point out that we do not even have involved here a so-called *tu quoque* doctrine. Rather, we believe that accepting this proof would encourage confusion, above all in the minds of Germans, as to the meaning of these trials and the foundations upon which they rest. All of us have sympathy for the suffering that has now bounded back upon the German people because of the aggression which its political and economic leaders waged, made possible, and so long sustained, but any preventative or retributive measures taken in the day of reckoning, after a hard-won peace and victory, should not be confused as a matter of law with the illegal measures of occupation which Germany applied and enforced whilst her victims still fought back to restore their lands from Germany's aggression.

Now, as a matter of fact, Mr. President, some of the documents in this book issued by British and American authorities, which Dr. Siemera has included, for example Schnitzler Document 115, define and reassert the applicable rules of law as we have argued above. Under any theory or relevance it is difficult to ascertain for what reason many of these documents were submitted for processing, unless it is to make this Tribunal what it clearly is not, namely a forum or a complaint board for miscellaneous grievances which certain Germans find with the present occupation, or even a forum where the intra-Allied and intra-American problems or intra-British problems of occupation policy can be aired and reviewed.

We want to point out that, in the opinion of the Prosecution, the admission in evidence of the documents in question would involve the spending by all parties of considerable time and effort on matters which have nothing to do with the issues in this case.

THE PRESIDENT: How much more time do you want?

MR. SPRACHER: One minute.

THE PRESIDENT: Go ahead.

MR. SPRACHER: The prosecution will necessarily desire to go into the question of Allied occupation policies and activities, if the documents in question were admitted in evidence and the Tribunal thereby indicated that they deemed them to have some relevance, since, in the view of the Prosecution, the purpose of defense counsel in seeking to have the documents admitted in evidence is to set forth such policies and activities in an unfavorable light, rather than to try out any issues which are involved under any conceivable theory in this case.

We can only mention that, for example, if the question of reparations is mentioned, that would involve going into some questions of justification.

Now, just one further thing. The index of this book, in a number of cases, could be slightly misleading, and we don't want to have to refer to that again, Mr. President. There are indications that these documents were presented in the Flick case. That's true and most of them were also rejected. In some cases there is a difference between "presented" and "accepted", but I just wanted you to know that where it is "presented" we don't have any such problem.

I would also like to point out that when Dr. Siemers attempted to present oral evidence concerning the dismantling of Krupp plants in the Krupp Case, this evidence was rejected.

THE PRESIDENT: Dr. Siemers, after lunch we'll permit you to briefly state the theory upon which you're offering these documents. May I say that in your thinking about the subject, gentlemen, please bear in mind

that this Tribunal is not concerned in determining any issues except those that are necessarily implied in the case we're trying.

The Tribunal will rise until 1:30.

(A recess was taken until 1330 hours, 3 May 1948.)

AFTERNOON SESSION

(The hearing reconvened at 1330 hours.)

THE MARSHAL: The Tribunal is again in session.

DR. DIX: Mr. President, a very brief statement I have to make. A few weeks ago I gave the corrections for the transcript and the Tribunal recommended that I study it through with Mr. Sprecher. That was done and the Secretary General received a copy, signed by both Mr. Sprecher and myself, and I herewith want to introduce these stipulations for the record.

Mr. President, one more thing. We shall have to submit further corrections but I already talked about this to Mr. Sprecher and that will not be possible by the 12th of May. However, I believe that there won't be any objections on your part that Mr. Sprecher and I will be permitted to submit these after the 12th of May.

THE PRESIDENT: That will be entirely satisfactory, gentlemen, and we do appreciate your cooperation in saving time with respect to making these corrections on the record. May I suggest that you mark one copy of these corrections so as to indicate that the corrections are agreed upon by counsel for prosecution and defense and hand it to the Secretary General for the record. You could just indorse on it on the outside or some place so that it will show.

DR. DIX: That has already been done. We both of us signed it and I shall now sign another copy.

THE PRESIDENT: Very well. Then the record may show that the agreed corrections of the record, joined in by counsel for prosecution and defense, is now filed and made a part of the record in this case.

DR. BERNDT: May I ask that I now have an opportunity to ask Dr. Tar Meier a few questions in redirect examination?

THE PRESIDENT: We appreciate your promptness in handling that matter, but if you do not care, Dr. Berndt, I think we will finish up on the documents being offered by Dr. Sierag. We have been giving some consideration to that during the noon hour and while it's fresh in our

minds and while we're on it, if you will step aside for just a few minutes I think we can dispose of that matter.

Now, Dr. Siemers, I may say to you that during the noon recess the members of the Tribunal have gone through your document books 7, 8 and 9 so that we are in a general way familiar with the contents of the books and we are expecting to dispose of the question of the introduction of these documents very promptly now. Before we indicate our rulings, two things we should like to do. We should like to know whether or not the record may indicate the objection of the prosecution to all of the documents contained in your Books 7, 8 and 9, separately and severally, so that we know what question is presented to us. If that - as I understand it to be - is to be the objection of the prosecution, we should like to have you state briefly your position.

Will you answer us to that, Mr. Prosecutor?

MR. SPEECHER: Mr. President, I think our objection runs to each and every one. There may be one possible exception here or there where we would have no objection.

THE PRESIDENT: Very well. Just for the interest of time then the record may show that the prosecution has now objected to the introduction of all of the documents contained in the Document Books 7, 8 and 9 of the Defendant von Schnitzler, separately and severally, and now, Dr. Siemers, you may state to the Tribunal, before we take up the matter of the ruling, if you care to, your position as to the theory upon which you are offering these documents. I may say in that connection you need not concern yourself much with the ninth book, but we particularly would like to have your position with reference to the documents in Books 7 and 8.

DR. SIEMERS: Mr. President, before I begin may I clarify one practical question first? Why Mr. Sprecher objects to my Book 9 I cannot understand. They are no documents at all referring to this question.

MR. SPEECHER: I may have made a mistake. I think we should not go into Document Book 9 for the moment.

THE PRESIDENT: Very well. Then the Prosecution is objecting to the documents in your Books 7 and 8 and you need not spend any time in telling us, Dr. Siemers, what these documents are because we have examined the documents, but we do want to accord you the privilege of stating upon the record the theory upon which you think they are competent, and if you will please be kind enough to be very brief.

DR. SIEMERS: Your Honors, I ask for your understanding that in this dispute between Mr. Sprecher and myself this is a question of fundamental importance in this law suit. It is of transcendent importance for me that the documents contained in Books 7 and 8 be admitted as the basis for the legal justification and particularly in regard to Count II of the indictment. If I do not have these documents, if I don't have any one of these documents, as is Mr. Sprecher's desire, then I can hardly see a possibility of presenting a logical and reasonable argument about the subject of plunder and spoliation. Whether these documents are admitted as evidence or exhibits, or whether a few of them, for formal reasons, as the Flick trial handled it, whether these are not going to be admitted as exhibits but merely with the stipulation that I may refer to them in my arguments, if that is going to be the decision that they will be given an identification number, that is practically not so important.

In order to clear one thing absolutely I want to anticipate the last point that Mr. Sprecher has stated. Mr. Sprecher asserted that I was presenting these documents because it was my intention, apart from the material in the trial, to throw a bad light upon the conduct of the Allies and Allied Government. I emphasize expressly that that is not correct. If I had wanted to do that, then this would not be the proper place and I understand quite clearly that attacks and reproaches against the Military Government belong into the political sector and not into this court room.

If I do bring these documents it is done merely to show the legal

basis of international law, in order to show what an industrialist could know about international law. It's done in order to show what insecurity predominated in the case of lawyers, politicians and military governments in this particular field.

About the remaining statements of Mr. Sorecher I want to say this. First, a crime which one is charged to have committed must be defined clearly. Such a definition is not contained in Control Council law. Such a definition is also not contained in the Hague Convention of Land Warfare. There are merely a few indications in the Hague Convention from which the ideas and the principles may be derived. The prerequisite for a law suit is the fact that the defendant, when committing his act, knew what was permitted and what was prohibited.

In order to show that that is so, instead of bringing any other documents, I want merely to refer to a statement of Lord Philimore at the occasion of an international legal discussion when he said clearly: "A human being must be accused for a definitely specified charge."

Furthermore, I refer to the judgment of the Military Tribunal in Case III on page 50 of their judgment where the principle is emphasized that: "Penal laws must be unequivocal and definite."

Your Honors, that this very prerequisite is lacking — that is what I want to show with the introduction of these documents. The ignorance or insecurity about the international legal questions, what is permitted and what is prohibited in an occupied territory, that insecurity is shown in various documents. I want to point out a very few instances.

For instance, Document 109, which is the directive of the United Chief of Staff, JCS 1067, has been submitted and simultaneously as Document 113, the directive of the American government for General Lucius D. Clay, dated 17 July 1947. A comparison of these two documents will show that, even in the opinion of the American Military government and of the American government, it was not quite clear in 1945 what was permitted and what was not permitted on the basis of international law, for these directives of 1947 deviate quite clearly from the old directives in 1945.

May I further refer to Documents 115 and 116? Mr. Sprecher has already pointed to my Document 115. This is a statement of General Robertson for the territory of Nordrhein Westphalen. He holds the opinion towards the Lord Mayor of Essen that the Hague Rules for Land Warfare cannot be applied and he says that there is no restriction on the plenipotentiary powers apart from those restrictions that the supreme authority — namely, the military government — places on itself.

Document 116 is an opinion of the Minister of Justice of Nordrhein Westphalen, Dr. Gustav Heinemann, about these statements. They are purely

legal opinions that show how differently one can judge the questions in these fields and how they were judged.

In the case of Document 119, which is Property Control Regulation of the British Military Government, it says that the custodian may sell confiscated property insofar as this is appropriate from the economic point of view and then there are various conditions made; but this is a parallel case to the attitude of the main trusteeship agency East during the war and I believe, if I am to argue about the actions of the main trusteeship agency East, then I must be given an opportunity to cite similar cases quite apart from the fact whether they happened in the same month or in the same year, when the actions of the main trusteeship agency East were conducted.

I don't want to delay your Honors too long and I don't want to go into all individual cases but want merely to refer to Document 122 as an instance. From this it can be seen — and this is quoted in the index — in the formal printed forms of the American Military Government, in the case of requisitions there was a prerequisite contained that this requisition must be in proportion to the entire property of the country. That is a regulation from the Hague Convention.

Since 1947 these printed forms no longer contained this sentence. In other words, a lawyer in the Military Government in the meantime held a different opinion.

Thus the Tribunal would see, in the case of numerous other documents, that the Military Government partly observes very clearly the Hague Convention and partly very deliberately as in Mr. Sprecher's reasoning, and sometimes undeliberately, does not take the Hague Convention into account.

Secondly, if one wants to say, whether it be in France or in Poland that the Hague Convention or the basic principles of the Hague Convention had to be applied in these countries, then one must be informed about the question of law when the Hague Convention was in force, for what period of

time it was to be in force and under what prerequisites it is to be in force; but this is particularly one subject that is not clear and is shown in the debate between Mr. Sprecher and myself.

The German government held the opinion that the Hague Convention should not be applied to Poland because there was no government in Poland. Mr. Sprecher holds the opinion that the Hague Convention was in force in Poland but that it is not in force in Germany because there is no government in Germany. That seems to be inconsistent to me. Stalin was more consistent in the case of Poland. In the case of Poland, according to my document 1917, he held the opinion that the Polish government was non-existent and consequently that the agreements which existed between the Soviet Union and Poland lost their validity. He held the same opinion towards Germany.

What is correct I shall not discuss here. I merely say that the question is so difficult that one must have at least an opportunity of showing these problems and to recognize what they are in order to determine whether industrialists — whether they were lawyers or not makes no difference — could have a clear judgment about these questions.

Mr. Sprecher made a second objection. He said that at the time of Germany's occupation there was no more Wehrmacht, there was no army that tried to conquer the land back again and that fought with the occupying troops. First of all, as to facts, I think Mr. Sprecher is mistaken. At the end of 1944 Germany was occupied and there was considerable fighting going on all over Germany. Anybody who was here in Nürnberg at the time knows that combat took place even here. During the occupation, then, it is not correct for Mr. Sprecher to say there was no Wehrmacht, that also from a legal point of view this objection does not apply.

In the Hague Convention there is no place that shows where it is a prerequisite for the application of the Hague Convention that there must

have been an army in existence that was still fighting.

May I point to Article 42 of the Hague Convention of Land Warfare -- I beg your pardon -- in my document book on page 21, the heading of the third paragraph, says: "Military power in enemy occupied territory." Article 42, sub-section 1, says: "An area is considered occupied if it is actually in the power of the enemy army"; second sub-section: "The occupation extends only to those territories where that power is in existence and where it can be enforced."

The sole prerequisite then, which the Hague Convention knows is the actual occupation, not the question whether there is an army still in the field, whether there is a government or not.

At another place General Taylor said that the Hague Convention was only to be applied if a belligerent power occupied the country. First of all, this was a belligerent power and, secondly, after the 8th of May, when this force was no longer a belligerent force, this is not important according to the Hague Convention. General Taylord referred to Article 44 which speaks of the belligerent expressly. I ask you to take into account that in a few paragraphs of the Hague Convention there is mention made of the belligerent and those articles are only in force, it is true, as long as the fighting is going on. That is shown by the sense of each particular article.

In the articles that interest us here: Article 42, 43, 52, 53 and so on, it is expressly mentioned and not by accident; only mention is made of the occupying power. Then only the fact of occupation is important.

I stated these things because the cases under which the Hague Convention is applied here in Germany I need for my citation of similar cases to show the legal foundation. I ask you to take into account that, before the International Military Tribunal, mention was made of this and that the International Military Tribunal did permit similar cases or parallel

cases for argument and that they even took these cases into account for their judgment.

One cannot consider Germany in a vacuum from an international point of view. One can only consider Germany if one takes into account the conduct of the Allied powers as well. In the IMT Trial I want to remind you of two cases. Dr. Krambuehler said, speaking of naval warfare, when he referred to the naval warfare of the United States against Japan, the Prosecution objected that was done at a later time than the naval warfare of the German Navy in regard to their submarine warfare and that, therefore, it was not supposed to be taken into account as a parallel case but the IMT was of a different opinion. They admitted this evidence.

Admiral Niemitz answered a question here and in the judgment it is stated precisely — I quote — from page 155:

"In view of these evidences and especially because of an order of the British Admiralty of the 8th of May 1940 to the effect that our ships were to be sunk at sight in the Scaggerrack and in view of the answer submitted in the questionnaire of Admiral Niemitz to the effect that in the Pacific Ocean from the first day when the United States entered the war an unrestricted submarine warfare was carried out as punishment to be meted out to Doenitz is not founded on his violation of international warfare as a result of naval warfare."

In other words, the Tribunal did not assume that a violation was conducted because the same violation was carried out in other places. It can, therefore, not be made the basis of a judgment. This case again was at a later time than the case under consideration in the trial and was in no causal connection between the submarine warfare between Germany and England.

THE PRESIDENT: Dr. Sigmars, if you will pardon the suggestion, we have listened very patiently to you now for about thirty minutes and I think I may say that we understand the basis upon which you are offering these documents and whenever you can conclude your remarks we are ready to indicate what our conclusions are in that regard. Unless there is something particularly important that you wish to emphasize before you close your argument, you might in the interest of time perhaps conclude very promptly now.

DR. SIGMARS: Mr. President, I can be very brief from now on.

Another point raised by Mr. Sprecher: the question of "Tu Quoque" I have already had a dispute on during the IMT with Sir David Maxwell-Fyfe. That was my document I submitted in the case of Norway. The Prosecution objected to all documents with the same reasons as are being brought up here. In the IMT Trial approximately two-thirds of my documents were admitted so that I would have an opportunity to base my arguments from an in-

ternational legal point of view. They were all things that had nothing to do with alleged crimes of the defendants at the time, for instance documents which showed attacks upon Caucasian petroleum sources by the Allies and so on.

May I then merely point to this fact? Mr. Sprecher emphasized the unconditional surrender, the fact that there was no government any more, and refers to the judgment of the Justice Case of the 3rd of September, 1947, and wanted your Honors to take judicial notice of it. I believe Mr. Sprecher's reference to this judgment shows that my documents are relevant. If a decision is made in a judgment, then what has been discussed there is presumably relevant or has been relevant for that trial.

We are not discussing here whether my opinion is correct or incorrect. We are merely discussing whether this evidence should be taken and made a part of the argument or not; but these questions are of particular importance if one regards the subjective point of view, what picture a lawyer or industrialist could gain at the time, and what is the picture presenting itself to us today, and I believe I can say that even today all the questions with which the newspapers concern themselves and are discussed in international legal arguments are discussed in order to find out what is permitted and what is not permitted. There are two more small points that I must mention. Mr. Sprecher said that most of the Flick documents had been rejected in the Flick trial. I must point out that that is not quite correct. The most important documents were admitted by the Tribunal in the Flick case. In order not to waste any time, I shall give your Honors a short list from which the transcript pages can be seen where the individual affidavits that I presented were accepted into evidence. All of the seven affidavits contained in these document books are numbers: 125, 126, 128 up to and including 132. From HCS 1067, the Flick trial - on page 9611 to page 9619 took judicial notice and about the proclamation of

Control Council Law. These are documents 109 and 110. They did not admit the JCS into evidence as far as I remember because at the time JCS 1067 was only in the form of a newspaper and only in excerpts, but at this time I am in the fortunate position of having a notarized copy of this same statement. Reference to various other documents -- for instance 114 and 115, documents which state that General Clay denies the application of the Hague Convention -- was permitted to me.

Mr. President, now only one more thing in conclusion. Please understand me correctly, if I concluded by saying that the questions which Mr. Sprecher has raised should be regarded from an ethical point of view because we are dealing with international law. If one is of the opinion that the civilian population is to be protected by the Hague Convention for general ethical reasons, then I believe that Mr. Sprecher cannot say this protection is eliminated if there is no government in existence and if there is no army fighting. Especially when there is no government and when there is no army fighting, the civilian population needs even more protection for ethical reasons than in the other case. They need the protection of the Hague Convention and they need the protection offered by the regulations which, in the words of Mr. Jackson, "bind both the victor and the subjected."

DR. DIX: Mr. President, since the subject which both gentlemen have been discussing interest us all very vitally, I ask that you grant me two or three minutes in order to add the following to these statements of my colleague Sieners.

Mr. Sprecher spoke about a subject that is certainly at the moment not the subject of the decision of this Tribunal. Whether the Tribunal is in the "Debatatio" question follows the original, the first, judgment or not will be decided by your Honors in the final judgment and we are going to argue that point in our final pleas. At this point your Honors are only deciding about the question as to whether the documents which Dr. Sieners

offers have a probative value for a permitted argument and I believe Dr. Siemers has shown that to be the case; but now Mr. Sprecher goes much further. He went further and that is why I am speaking here. He said that the contents of these documents was perhaps not even suitable and proper subject of an argument. If he is of that opinion then he denies the privilege to the defense to argue about questions of international law, and that that is not correct can be seen from Mr. Sprecher's own words because he said approximately this: that we — that is Germany and the German defense, as such — were not authorized to interpret international law because, as he says, the Reich tore up international law, as he put it. On behalf of all of the defense, I must take exception to that statement. Your Honors, if that were correct and true, then we could take our robes off and go home; but if your government has set up a Tribunal here and has permitted Germans to defend these defendants, then there can be no question that these same Germans have the right to argue about international law and of interpreting international law.

THE PRESIDENT: Now, counsel when this trial started the Tribunal stated — and it has repeated from time to time — that under the concept of justice that the Tribunal would undertake to apply the defendants would be presumed to be innocent of the crime charged, that that presumption would follow them step by step throughout this trial and up until the time the judgment was written and until their guilt was established beyond a reasonable doubt.

It is apparent — and it may become even more so and more important as we approach the discussions of the legal questions involved — that there are questions of international law with which we all have to deal. The burden is on the prosecution to prove that international law has been violated insofar as international law is applicable to this case.

The question of what is or is not the law is ordinarily not a matter

of establishing facts because all of us presumed to know the law. We may honestly differ sometimes as to what the law is but ordinarily we do not establish law by bringing in witnesses who say what the law is.

You gentlemen on both sides will have ample opportunity to argue and to urge upon this Tribunal what principles of international law are applicable to this case.

I have said that preliminary to saying also that ordinarily we do not determine what the international law is, or any law for that matter, by showing isolated cases of what some agency or what some individual did. A good many exhibits in these books relating to conduct of this authority or that authority, this governmental agency or some government with reference to some particular circumstances of facts, particularly since the time about which we are concerned.

Now, to accept those things as the test of what is international law would be to inject a lot of collateral issues into this controversy to determine whether or not that conduct was, or was not, a violation of international law. This Tribunal is not ready to say that because a victor nation did something, that that must be accepted as in accordance with international law. It is entirely possible that a British authority or an American authority might do something wrong -- and that is not the test by which we determine international law.

I say that because Dr. Siemers placed emphasis upon the right of the defendants to argue and to urge what international law is applicable in this case, and that right will in no wise be infringed. But in approaching that we cannot inject into the case a lot of collateral issues that would find us, in the long run, trying some other case than this as to see whether this or that was right in some other instance. The Tribunal has gone through these Books 7 and 8 and has satisfied itself as to those documents which have no probative value, and as those that have some probative value, they will be admitted.

And now, in the interests of time, I am going to take first Book 7 and accord Dr. Siemers the right to have each of his documents marked with a number and to make his record because he does have the undoubted right to exercise his own judgment as to what evidence he presents to the Tribunal, and he is entitled to have the Tribunal say whether or not that evidence is, or is not, competent.

We shall go through these documents and give them numbers and rule with respect to their admissibility:

Document 108 has already been marked as Schnitzler Exhibit 111; it will be rejected.

Document 109 is Exhibit No. 112, and will likewise be rejected.

Document 110 will be given Exhibit No. 113, and will be rejected.

Document 111 will be given No. 114, and will be admitted in evidence.

Document 112 will be given No. 115, and will be rejected.

Document 113 will have No. 116, and will be rejected.

Document 114 will have No. 117, and will be rejected.

Document 115 will be given Exhibit No. 118, and will be rejected.

Document 116 will be given No. 119, and will be rejected.

Document 117 will be given Exhibit No. 120, and will be admitted in evidence.

Document 118 will be given No. 121, and will be rejected.

Document 119 will be Exhibit No. 122, and will be rejected.

Document 120 will have No. 123, and will be rejected.

Document 121 will have No. 124, and will be rejected.

Document 122 will be given No. 125, and will be rejected.

Document 123 will be given No. 126, and will be admitted in evidence.

Document 124 will be given 127, and will be admitted in evidence.

Document 1, I assume, is in evidence, and the objection to it will be overruled.

Document 7, I assume, is likewise in evidence, and the objection to it will be overruled.

Document 8, we assume, is in evidence, and the objection to it will be overruled.

DR. SIEMERS: Mr. President, it may be that they were only identified; then I ask that they be admitted in evidence as exhibits.

THE PRESIDENT: Exhibits 1, 7 and 8 are admitted in evidence.

Document 126 will be Exhibit 128, and it will be rejected.

DR. SIENERS: Pardon me, "r. resident, this is a typing error. This document should be 125; it is incorrectly stated as being 126 in the index.

THE PRESIDENT: Very well. Then the document given No. 126 in Book 7 is really Document 125. It will be given No. 128 and it will be rejected.

Document 126 will be given Document No. 129, and it will be rejected.

Document 127 will be given Exhibit No. 130, and it will be rejected.

Document 128 will be given No. 131, and it will be rejected

Document 129 will be given No. 132, and it will be rejected

Document 130 will be given No. 133, and it will be rejected

Now, to summarize, so there will be no misunderstanding.

The documents in Book 7 which have been given exhibit numbers 114, 120, 126, 127; No. 1, No. 7 and No. 8 are admitted in evidence.

Now, turning to Von Schnitzler Document Book 8: The first document in that book is 131, and it will be given Exhibit No. 134.

The next number is 132, and it will be given Exhibit No. 135.

Document 133 will be given Exhibit 136; Document 134 will be given Exhibit No. 137; 135 will have No. 138; 136 will be given Exhibit No. 139.

137 will have No. 140 as an exhibit; 138 will have No. 141, (Exhibit) 144; (Document) 142, (Exhibit) 145.

143 will be Exhibit 146; 144 will be Exhibit 147; Document 145 will be Exhibit 148; 146 will be Exhibit 149.

Document 147 will be Exhibit 150. Document 148 will be Exhibit 151. Document 149 will be Exhibit 152. Document 150 will be Exhibit 153.

Document 151, Exhibit 154. Document 152 will be Exhibit 155.

Document 153 will be 156. Document 154 will be Exhibit 157. And Document 155 will be Exhibit 158.

Now, the objections of the Prosecution's to ^{admitted} (documents) from 134 to 158, both inclusive, are sustained, and those documents will not be admitted in evidence.

You may continue with your next book.

DR. SIEMERS: Mr. President, may I ask one more question, please? Does the rejection also mean, for instance, that texts from the law such as, for instance, Exhibit 136, which was rejected, must not be used by me in argument, although it is a Control Council Law? Or is that admitted for argument?

THE PRESIDENT: Certainly it does not mean that you may not quote and cite in your argument and in your briefs any proper source of international law. I think, perhaps, the Tribunal was unfortunate in the early stages of this trial by permitting some documents to be marked for identification that were not properly evidence at all but were only pertinent as sources of the discussion of law.

Now, you do not need to make any document, I mean any book of reference, any recognized authority, an exhibit for the purpose of quoting and using it in your briefs or in your argument. Any international convention, any recognized textbook, any contributions and periodical literature of some recognized authority you are privileged to cite and to quote in argument and in brief without having it in your document book whatever. And I may say that some of the documents that we have rejected here in so far as it may be said they are sources of international law may be quoted and cited as you see fit.

I think, perhaps, we would have been more consistent if we had not used this designation of "marked for identification" quite so liberally because in some instances we have said: "You have processed the document; it is not in evidence but it is in your book and we will mark it for identification". That is not necessary in any way whatsoever to your use of it in your briefs or in your argument.

DR. SIMERS: Your Honors, I would then want to refer to one document in Book 7. That is the affidavit of Dr. Winkler, which is admitted as Exhibit 127. As a matter of fact, on page 105 there is one passage of special significance, that is on page 104 at the bottom of the page and 105 at the top, where Dr. Max Winkler says, when talking about the sale of Boruta to Farben: "In this I was primarily motivated by my obligations as a trustee to conserve the substance the capital of the Polish owners and to make the continued operation of the plant possible. The idea of a sale instead of a lease came, so far as I remember, from Dr. Herle and Geheimer Regierungsrat Dr. Mehnke, whom I have already mentioned, who was a first-rate expert."

Dr. Winkler then points out that he demanded a purchasing price of 5 million marks, whereas Farben computed the price at 3.2 millions—and did receive the higher price. And at the end of this first paragraph on page 105 he says:

"At the same time that Main Trustee Office East, that means myself, or Dr. Herle and Dr. Mahake, made it necessary for Farben to make a large investment in the interest of the plants. As far as I remember, this investment was to amount to approximately 5 million marks, the same amount as the purchasing price."

I merely wanted to point to this in supplementation of Dr. ter Meer's statements.

May I then come to Document Book 9 where I offer my first document, 156 as Exhibit 159. It is an expert opinion of an attorney, Dr. Klefisch, about Control Council Law No. 10, Article 2, sub-section 2-C, concerning the criminality by reason of membership in an organization connected with the commission of a crime as defined in Control Council Law No. 10. This is a legal question. May I point out that the Prosecution considers I. G. Farben as such an organization, so that it is of relevance in order to take some of my argument out of the final plea I ask that you accept this expert opinion.

THE PRESIDENT: May I say to you, Dr. Siemers, that in anticipation that there might be some question raised as to the admissibility of the documents in your Book 9, during the noon recess, when we went over Books 7 and 8 we also went over 9. And, strictly speaking, it is our conclusion that your Document 156, to which you have assigned Exhibit No. 159, is not properly in evidence in this case. But it is something that you might wish to rely on or use in the course of argument, and to carry our former practice along consistently we will give it No. 159 for identification.

And now, in the interests of saving some of the time that we necessarily had to lose in discussing the problem which we have just passed, I will say to you that it is the view of the Tribunal that all

of the other documents in this book are proper evidence in this case. We have gone over them. We know in a general way what they are, and for your information, and for the information of the Prosecution, we think that all the other documents contained in this Book 9 are proper. We know in a general way what they are, and if you care to, Dr. Siemers, you may give them numbers and they will be admitted in evidence.

DR. SIEMERS: Document 157 will become Exhibit 160. This is an affidavit by Spinnler, who states that Schnitzler was accepted into the Nazi Party without applying for it.

Document 158, which is Exhibit 161, is Hartmann's affidavit.

Document 159, Exhibit 162, is an affidavit of Dr. Friedrich Krebs, Lord Mayor of Frankfurt. It is of importance in that connection that Krebs reports of differences of opinion between Schnitzler and Gauleiter Sprenger, and he says that Sprenger called him the worst names, such as "liberalist, capitalist, profiteer, ". It is of importance that the confidential person, Mr. Jviensy, was refused as member of the Aufsichtsrat despite the urging of the Gauleiter, because of Herr Bosch and Herr Schmitz. In brief, the wish of the Gauleiter was not complied with. In other words, Jviensy, who was the confidential man of the Gauleiter, was not supported and was staunchly rejected.

Document 160, which will become Exhibit 163, an affidavit of Hela Dubois, secretary to Dr. von Schnitzler. Document 161 will become Exhibit 164, an affidavit of Dr. Luebbecke, the present city councillor of Bad Homburg.

Document 162, an affidavit of Milges, will become Exhibit 165.

Document 163 will become Exhibit 166.

Document 164 will become Exhibit 167—I don't want to quote from these at all.

Document 165, an affidavit of Dombrowski, will become Exhibit 168.

Document 166 will become Exhibit 169. This is an affidavit of Rolando Balducci, the director of the firm of A.R.C.I. of Milan. This refers, among other things, not only to the personality of Mr. von

Schnitzler as to the other affidavits but also refers to the question of war of aggression, and it seems to be of significance that Farben or Schnitzler never tried to place the Italian firm in the service of the National Socialist policy.

The document 167 is an affidavit of Freiherr von Lersner. It will become Exhibit 170.

(Document) 168 will be Exhibit 171, an affidavit of Dr. Max von Brueck, who was employed by Farben although he was persecuted by the Nazis.

Document 169 will become Exhibit 172, an affidavit of Benno Reifenberg.

Document 170 will become Exhibit 173, an affidavit of Severin Boyer, who Schnitzler liberated from the Gestapo.

Document 171, Exhibit 174, an affidavit of Camille Schenk Freifrau von Stauffenberg, who was supported by von Schnitzler when, at the occasion of the attempt on Hitler's life, she was persecuted by the Gestapo.

Exhibit 175 is Document 172. This is an affidavit of the university professor Dr. Erwin Rouselle, who again describes Schnitzler's position as to war and war of aggression.

Document 173 is Exhibit 176. This is an affidavit of Theodor Hornbostel, an Austrian envoy and minister. He was employed by Farben after he was released from a concentration camp upon the instigation of Schnitzler.

Document 174 will become Exhibit 177. This is an affidavit of Georg Heck.

Document 175 will become Exhibit 178. This is an affidavit of Auguste Brunnabend.

The previous document, 174, will receive Exhibit No. 177.

After the Brunnabend exhibit as Exhibit 178 is the affidavit of Miss Liselotte Mieller-Cunradi, which is Document 176, which will become Exhibit 179.

The affidavit of Dr. Hans Kugler, which is Document 177, will become Exhibit 180. I offered that document in order not to have to ask Dr. Kugler about the details on the witness stand and to expedite the trial. It concerns Schnitzler's position.

This concludes the presentation of my documents. May I inform Your Honors that the last think in my case will be one witness, that is the witness who was not able to come at the time because he had suffered an accident. That is Dr. Doering, from the Reich Group Industry who is going to talk about Reich Group Industry and the association for the promotion of sales.

THE PRESIDENT: Dr. Siemers, what is your judgment as to how long it would take you to present the evidence of that witness?

DR. SIEMERS: I would estimate that I will need not quite forty-five minutes for the interrogation—perhaps forty minutes. May I point out to Your Honors that it was figures into the overall time and that I endeavored to keep it in the time limit and actually am going to keep within the proper time limits.

THE PRESIDENT: When do you wish to call that witness, Dr. Siemers?

DR. SIEMERS: If Your Honors agree, I would like to call him right away, immediately. Or perhaps Dr. Berndt could start first; I would be in agreement with that, too.

THE PRESIDENT: Very well. We will permit Dr. Berndt to call Dr. ter Meer back to the stand, and then when that examination is concluded you may call your witness, if that is agreeable.

DR. SIEMERS: Thank you very much.

THE PRESIDENT: Dr. ter Meer, you may return to the witness box.

(DR. FRITZ TER MEER, a witness, took the witness stand and testified as follows);

EXAMINATION

FRITZ TER MEER

BY DR. BERNDT (Counsel for defendant Ter Meer)

Q. Dr. Ter Meer, I have a few short questions about those documents which were submitted to you during cross-examination by Mr. Sprecher on the 17th of February, 1948. You were first shown Exhibit 1883, NI-14175. Mr. Sprecher asked you in that connection whether you personally hadn't taken steps against the desire of the French which was directed towards acquiring financial participations outside of France. At the time you wrote at the margin of a letter which transmitted this desire of the French, in your own handwriting, the word "no." What have you to say about that?

A. That affair is very simple and clear. Paragraph 11 of the Francolor Agreement provides that the parent firms obligated themselves neither at home nor abroad to erect any competitive enterprise in the dyestuffs field or to promote such enterprises. This obligation does not restrict the freedom of the three parent firms in any other field to construct or to participate in as many factories as they want at home or abroad, and as they desire.

The sentence, "adjusted by the lawyers of the firm Kuhlmann" at the time was quite superfluous in the Francolor agreement, and therefore I probably wrote "No" in the margin at the time in order not to permit any unclarity to arise in the obligation in the dyestuffs field. The matter is completely insignificant, in other words.

Q. You were further shown Exhibit 1813a, III 14176, and you were asked in connection therewith whether it was correct that the entire question of confining the plenipotentiary powers of the Chairman of the Francolor by Farben had already been decided upon, on the 25th day of April, 1941, decided upon—that is through a one-sided decision of Farben. Would you say anything in that connection?

A. That question must be answered in the negative. It was decided upon numerous drafts that were prepared in the course of the negotiations by one party or by the other. There can be no mention or no talk about a decision of Farben, and there was no decision. The best evidence for the fact that these decisions were not decisions can be seen from the fact that the final Articles of Incorporation, as it was signed in November, 1941, contain different figures than the draft that I corrected. That can be shown by a comparison with Prosecution's Exhibit 1256, in Book 58, on page 65 German, English page 59 and following. That is the long exhibit about the Articles of Incorporation. That is with particular reference to Article 28. In other words, the submission of the Prosecution was incorrect.

Q. You were also shown Exhibit 1885, III 6957. That is a lengthy document and you only glanced at it fleetingly at the time. Would you

now, after a more detailed study, add anything to your statement made at the time?

A. Since I now closely read the document, and studied the signature, the file note and so on, I can now see that this file note was prepared by a very young employee of the Department of Chemicals, a certain Mr. Ohliger. This is not a file note that I drafted, now a file note to which I gave any instructions or initiative. I also may add that I made my own file note about the same meeting, bearing date of 23 May, and the things that the Prosecution credit to me are not contained in the file note. Neither at a time when the Francolor transaction was completed, I spoke of that as a subsidiary company, nor did I use the expression for the entire contract when these statements only referred to a limited part of the contract, a fact that I immediately and instantaneously mentioned during cross-examination.

I am sorry that Mr. Ohliger prolonged cross examination by quoting a wrong expression. That is all contained there.

Q. Would you please explain Exhibit 1036, NI 14224? Have you any statements to make in that connection; this is Mr. Kugler's report about the trip to Paris at the end of November, 1940?

A. No, I believe I have gone into great length about this thing already.

Q. You were also submitted Exhibit 1887, NI 13145. That document contains the minutes of a meeting of the larger dyestuffs committee of the 20th of November, 1942; in connection with that exhibit you answered the question of the Prosecutor in the affirmative, that the Production program in France was directly and unequivocally connected with the war production program in Germany. Doesn't this answer in the affirmative somehow contradict the statements which you have now made about Francolor's production?

A. I am not of that opinion. When shifting certain production places to France, to a very moderate extent, we recommended that certain so-called army requirements be produced in the French plant, and the

French production management carried out this suggestion, and again these same products centralite and diphenylamine again are concerned. These were not finished explosives nor finished poison gas, and not finished powder. They were produced, and they were called at the time immediate army requirements, and even if it was only a few per cent of the entire production, I had to answer the question of the Prosecution in the affirmative.

The fact that this production was carried on on a very small scale, and that in no case powder, explosives or poison gas were involved, I know as well on that day when I was cross examined as I know it today, but I was not asked about it at the time.

Q. I now want to ask you a few brief questions about those documents which were submitted to you this morning on cross-examination. Would you please take up HI 790. This is Exhibit 2193. This is a letter dated 21 November, 1940. Have you this letter before you?

A. Yes.

Q. You remember that yesterday or on Friday, that is, you told us that you and your other colleagues were not enthusiastic and did not agree to the manner in which the Ambassador Hammen met the French in Wiesbaden? If I now look at this letter, then from the words in the first paragraph of this letter, one must rent a certain recognition of the author of this letter about the conduct of Ambassador Hammen. Does that not somehow contradict your statement?

A. I cannot agree to that. I don't think so. I think that letter was written because in the third paragraph there are a number of dates mentioned, the time when Mr. Solway, of the well-known Belgian firm in Berlin, was to visit us, and since the author of this letter had just come from the Wiesbaden meeting, he made a short remark about the initial letter, and because of the brevity of this remark, when he judged the manner in which Hammen conducted himself during the meeting, he did not go into details, or at least he only described one side of Mr. Hammen's conduct. The fact that we thought Mr. Hammen's conduct was a little too

energetic and too purposeful, is in no way refuted by the remark of this author.

Q. Would you then please take up HI 15227, a document which was given Exhibit Number 2196. This again is a letter to the Envoy Hansen. Do you want to say anything generally about this letter?

A. When I thought about the background reason why this letter was written, I remembered that there were certain differences of opinion between the Wiesbaden Armistice Agency and the Economic Department of the Paris Military Agency around the turn of the year, and this seems to be the starting point for this letter. That, by the way, was the result of an accident of a chance discussion that I had on the Potsdam railroad station platform as I told you already before.

This letter is addressed to Envoy Hansen himself and it speaks about the sincere conviction that something had been achieved which would otherwise never have been achieved, then I would want to question as to whether this is not a very intensive polite manner of speaking only, but I do not know that because I was not the author of that letter. If the author of this letter was of the opinion I expressed that the Francolor contract would also have been concluded if the two Governments had not taken an interest in it primarily. But that does not dissuade me in any way from my own conviction. I am still convinced today that the factual foundations that were existent at the time would have caused the French to seek some sort of agreement with us anyhow, even without intervention of the Armistice Commission, and I have already said this before.

Q. Then Exhibit 2197, which is Document 15233, I have only one brief question in that connection. This exhibit speaks about the Wehrmacht shipment; I am only interested in one thing. What proportions were they in the overall production of Francolor's production?

A. For 1942, a year for which I had figures available from the known report of Dr. Lochr, about which I have made statements on Friday, it can be seen that the proportion of these so-called army deliveries, - the direct army deliveries, - amounted to 5 per cent of the entire production of that

year. They are the same stuff mentioned again, contralite, diphenylamino, and Mono nitronaphtaline.

DR. BERNDT: Mr. President, I have three more questions about the last document. Am I to ask them before the recess or do you wish to make the recess now?

THE PRESIDENT: I think on account of the strict time we have to observe on account of the sound track, we will take our recess at this time.

We will rise.

(Tribunal in recess until 1515 hours)

THE MARSHAL: The Tribunal is again in session.

BY DR. BERNDT:

Q Dr. Ter Meer, may I ask you to look at the Document NI 15292, Exhibit 2198. Have you got that before you? Now turn to page 2. This refers to equipment which was delivered from Ludwigshafen to Francolor. What do you know about that? What is formol, incidentally?

A We are concerned with the same equipment I mentioned during my testimony Friday afternoon. This is a modern apparatus for the production of an intermediate for plastic, formol. This apparatus was delivered from Ludwigshafen to the Villers - St. Paul factory in order to increase the production of plastics there to be a considerable extent.

Q Would you now please turn to pages five and six of that document. It is mentioned there what has been given to the French. The first sentence says that these are textile auxiliaries, the production of which was planned to a great extent in Villers. Would you please talk about that.

The statements on page 5, 6, and 7 prove what I testified to Friday afternoon with respect to the expansion of the Francolor production, in particular in the field of textile auxiliaries.

Q There is nothing you have to add?

A I don't have to go into details.

Q There now remains the last page -- page nine. Mention is made of one hundred French workers who were sent into the Farben plant Ludwigshafen. Is there anything you can mention about that matter?

A This too is a confirmation of the testimony I made Friday afternoon about the making available of a certain amount of workers to Farben from the Francolor plants.

Friday afternoon I forgot to indicate a number of figures to you which will be contained in the affidavit which you will submit for Dr. Loehr. There it gives you the figures of the workers for the four factories united under Francolor for 1938 -- that is before the outbreak of the war and from 1941 to 1944. In 1938 the figure of the workers amounted to 4,248. Most of them became prisoners of war in Germany and in 1941 this went down to 3,484. And in the following years, 1941, there were 3,343, 1943 approximately ten percent. If one compares this situation with the labor situation in Germany it is shown how extremely well off the French were in that connection and how they could survive the war years with respect to labor questions.

Q Now, the last question on this document. Mr. Sprecher asked this morning about the Belgian factory Riem. Is there anything you can add to that matter?

A Yes. I merely wanted to ascertain whether we are here concerned with the factory located in Belgium, Riem-Erdfelde, and I found this is the case. It was a very small dye-stuffs factory which the French were running in Belgium and which already before the outbreak of the war ceased operation in agreement with the Farben cartel. Francolor naturally was not interested in that factory and the former owners, Kuhlmann, made an agreement with us to the effect that Farben would receive the equipment of the plant which they could use for an amount which was fixed to be 60,000 marks. The costs of dismantling were to be borne by Farben. This is contained in the minutes of the Technical Commission.

Q Dr. Ter Meer, this brings me to the end of your examination. Is there anything you want to state on your own?

A No.

Q Then let me state one thing, with your agreement, I hope. I couldn't ask you about all matters which were mentioned in the indictment, in documents, or in the trial briefs. I couldn't ask you about all the points with which your name is connected. But I can state, and you will agree with me, that with respect to all counts with which you have made no express statements, you reject any charge of having committed any illegal actions.

A Yes.

Q Your Honors, this brings me to the end of Dr. Ter Meer's examination.

THE PRESIDENT: Any further questions of this defendant?

DR. SIEMERS: One question, your Honors. Dr. ter Meer, in the meantime I have handed to you Exhibit 2196, NI 15227. I gave you the original photostat of that document.

When Dr. Berndt examined you before you only had the excerpt before you which was submitted by the prosecution. Excerpts are often somewhat misleading and now that you have seen the entire document would you be good enough to say whether you can now state why a letter was written to the envoy Hammen on the basis of this conversation at the Potsdamer Bahnhof.

MR. SPECHER: I am not making an objection, but I have here, fortunately, the actual original document which was brought from Frankfurt and I would like to ask that the witness see it rather than the photostatic copy, in view of the representations that have been made.

THE PRESIDENT: Let's keep our record straight. Now, are you going to have to ask that that original be made an exhibit instead of the copy in the files?

MR. SPECHER: Mr. President, because it's ultimately the property of the Control Office and has only remained here

pending processing, I am not certain that I can do that, but I will try to see if I can not.

THE PRESIDENT: Would you be safe in asking that it be made as an exhibit in lieu of the copy that is in the record? Then you can file a motion to withdraw it later and substitute the copy.

MR. SPRECHER: Yes, I think in this case we could convince the Control Office that that was important.

THE PRESIDENT: Very well.

MR. SPRECHER: Let's —

THE PRESIDENT: When the record may show that subject to being withdrawn later if the Court deems it proper, the original of the document is now substituted for the copy in the file of the Secretary General.

DR. SIEMERS: Let me state —

THE PRESIDENT: Now, do you wish, Dr. Siemers, to pass up the original document to the defendant before you question him about it?

DR. SIEMERS: The photostatic copy is in agreement with that original, but certainly I can give Dr. Ter Meer the original and we will arrive at the same result.

THE PRESIDENT: I think you had better do that because after all it's now the exhibit. It's a better evidence anyway.

DR. SIEMERS: Let me just state, Your Honors, that my objection this morning was directed against the probative value of that document and I still stand by my objection. The original too says, "Signed, Schnitzler, or "Signiert, Schnitzler." In other words, it doesn't help us.

THE PRESIDENT: Well, that is a debatable question. So go ahead and ask your questions now.

BY DR. SIEMERS:

Q Dr. ter Meer, would you be good enough to tell me

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whether the question which was put to you by Dr. Berndt
as to how this letter was drawn up -- are you now able
to answer that question in greater detail having read the
original of the letter?

A.- Yes. From the excerpt which I had read previously I could only more or less guess what its contents were. I guessed at a certain friction between Wiesbaden and the German administrative offices in Paris. If, however, one reads the third and fourth paragraphs, one finds that this actually means that the author of the letter informs the envoy Hennen how it came about that certain conferences were conducted in Paris which Hennen would have preferred to conduct in Wiesbaden. This explanation in the third and fourth paragraphs assumes the form of almost an apology. This supports my view even more that these remarks intend to be a character of politeness because actually this is a letter of apology.

MR. SPRECHER: Dr. ter Meer was speaking rather rapidly and I didn't hear part of the translation come through. May I ask him to repeat that last bit?

THE PRESIDENT: Can you repeat your answer, Dr. ter Meer.

A.- The whole answer?

THE PRESIDENT: Very well.

A.- Before I was only able to read the excerpt from the letter and I could only guess that we are here concerned with a friction between the Wiesbaden Armistice Delegation and the Economic Military Administration in Paris. After, however, having read the letter in its entirety, I can see that this refers to a very clear misunderstanding, even a type of reprimand which apparently was made to the author of the letter, to the effect that certain conferences were conducted in Paris whereas the envoy Hennen would have preferred them to be conducted in Wiesbaden. For that reason this letter clearly bears the character of an apology on the basis of the third and fourth paragraphs or at least an apologetic explanation. This supports the view which I have already voiced on the basis of the excerpt that the "sincere conviction" which was quoted here was merely a polite formula and since this is an apology letter this formula was particularly emphasized.

Q.- Dr. ter Meer, the part of the letter which was not mimeographed by the prosecution — does it show upon whose negotiations the conference with the Paris government officials took place which Hammen obviously objected to.

A.- Yes. It is stated under paragraph 3 that Mr. Duchemin expressed the wish that the Farben gentlemen would get together with him, his colleagues, and the French government representatives. Whereupon the author of the letter stated that he could only agree to that course if the representatives of his own government were also present. It seems that Mr. Duchemin then approached the French ministers who, in turn, visited the economic offices of the German Military Government in Paris and then, upon French request, as it stated here, there was a conclusion conference in Paris in the presence of both government representatives.

Q.- One last question. Was envoy Hammen participating in one of the later conferences in Paris? I am referring to conferences which you two attended.

A.- He did not participate in a single Paris conference.

DR. SIEMERS: Thank you very much. No further questions.

MR. SPRECHER: We have no further examination, but in view of the testimony that has just come out now I think it would only be fair if we translated in full the rest of this letter and submitted it to Your Honors because I suspect Dr. Siemers won't object to that.

THE PRESIDENT: Very well. That may be done.

MR. SPRECHER: I refer to Prosecution's Exhibit 2196, NI-15227.

MR. SIEMERS: Thank you.

THE PRESIDENT: Is that all, Dr. Siemers?

DR. SIEMERS: Yes, that is all.

THE PRESIDENT: Any further interrogation of this defendant by counsel for the defense? Then you are excused, Dr. ter Meer. Now, are you ready to call your witness, Dr. Siemers?

DR. SIEMERS: Yes, I am ready to call the witness Dr. Doering.

THE PRESIDENT: The marshal will bring in the witness.

Mr. witness, you will please remain standing for the purpose of being sworn, raise your right hand, say "I", and state your name for the record.

A.- I, Wilhelm Doering —

THE PRESIDENT: Now, please, repeat after me the oath, — swear by God the Almighty and Omniscient, that I will speak the pure truth and that I will add the withhold nothing.

(The witness repeated the oath.)

You may be seated.

DIRECT EXAMINATION

BY DR. SIEMERS:

Q.- Dr. Doering, when were you born?

A.- 1887.

Q.- Where are you residing now?

A.- I am residing at Bremen.

Q.- You have to make a pause between question and answer as I already told you before. Would you, very briefly, describe your professional career.

A.- I am a doctor of law and economics. In the year 1913 I volunteered in the Central Committee of German Industrialists as a volunteer. Later I became a scientific advisor and when in 1919 the Reich Association of German Industry was formed by the merger of former other associations, I was taken over into that new association as a referent. In 1925, I became a departmental chief and I remained in this position up to the time I retired on 1 January 1944. There was only one difference -- namely instead of the Reich Association Industry, the association was designated Reich Group Industry.

Q.- What was your position with Reich Group Industry?

A.- I was the head of the department for the promotion of sales, this department principally comprised all economic advertising and also matters

pertaining to exhibitions and fairs.

Q.- Before 1933 were you active in the same field — in the Reich Association of German Industry?

A.- Yes. The very same field.

Q.- The Prosecution has submitted numerous documents about the Reich Group Industry and its organization, in connection with Count I of the indictment, aggressive war. This brought about a sudden confusion about the structure of the Reich Group Industry. Would you please give us a very brief survey of the organization of the Reich Group?

A.- Yes, I can give you a short survey basing myself on my recollection. However I don't consider myself quite competent to do that because I didn't work in the organizational department of the Reich Group and therefore can not refer to any detail. Reich Group Industry was the central organization of German industry, in the same way as the other associations were which I mentioned before. It was set up on the basis of the law for the regulation of national labor.

Q. Let me interrupt you. I believe that you made a mistake. You said "regulations for national labor."

A. I beg your pardon; I made a mistake. I meant "national economy."

Q. Very well.

A. The Reich Group Industry was not an official organization. It was merely an industrial association in the same way as the former Reich Association. Their organs were first of all the leader and his deputy.

Q. Who was at the head?

A. They varied during the years. In 1939 it was Zangen, who was a general manager of the Mannesmann plants.

Q. What further positions were there in that organization?

A. There was the advisory council, which was a relatively small body of persons who supported and advised the leader. Then there was the large advisory council, which was composed of all those industrialists who had any functions to exercise within the structure of the Reich Group. For instance, they were chairmen of technical committees or leaders of economic groups or leaders of industrial departments with the various chambers of commerce etc.

Q. Dr. von Schnitzler belonged to the large advisory council, Beirer. Could you tell me what the significance of the large advisory council was?

A. It was a large body numbering more than a hundred persons, as far as I can remember. It had no decisive significance with respect to the management of the Reich Groups. As far as I remember it met very frequently—perhaps twice or three times a year. It usually listened to lectures pertaining to economic problems.

Q. Was there another organ with the Reich Group?

A. Yes, there was the business management which was subordinated to the main business manager, Dr. Guth. It had twelve departments, each of which dealt with a limited sphere of work. For instance, there was a legal department, a tax department, a transport department, a social

scientific department. As I have already said, I was in charge of one of these departments.

Q. What was your department?

A. It was Department 5, which predominantly dealt with questions of promotion of economy in general sales, exhibitions, fairs, etc.

Q. The Prosecution in the Nuremberg trials mentions the Economic Groups a great deal. What were the Economic Groups, and what was their position with respect to the Reich Group Industry?

A. The Economic Groups were the technical sub-structure of the Reich Group Industry. They were not really departments of the Reich Group in that sense of the word, but they were independent in their functions. To give you some examples, there was an Economic Group for Mining, one for Iron and Steel, one for Machine Construction, one for Electro Industry, one for Chemical Industry, one for paper, timber, food, etc.

Q. You just emphasized that the Economic Groups formed the technical sub-structure of the Reich Group. Was there another organizational structure subordinated to the Reich Group?

A. Yes. In addition, there was a geographic sub-structure in the form of an industrial and chambers of commerce.

Q. Were there other organizations of the Reich Group?

A. Yes, there were the Technical Committees.

Q. Did these Technical Committees belong to the Reich Group, or did they belong to the Economic Groups; and why were such organizations and committees composed?

A. The Technical Committees did not belong to the Economic Groups, but were direct organs of the Reich Group Industry. They had to advise on certain technical fields. There had been similar committees in existence before that, with the old Reich Association, and later on with the Reich Group. Here, again, I should like to cite a few examples: There was a Tax Committee, a Trade Political Committee, a Legal Committee a Transport Committee, and in my field of work there was the Committee for Industrial Promotion of Trade, Committee for Exhibits and Fairs; and

there was the Committee for Patterns, Drawings, etc. The work of these committees was determined by the Technical Department of the Business Management which supplied. They were in charge of preparing the meetings and saw to it that the decisions made were implemented.

Q. Schnitzler was a member of the close advisory council of Economic Group Chemistry. Did this little advisory council have anything to do with the advisory council of the Reich Groups which you just mentioned?

A. No. This was an organ of the Economic Group Chemistry, which was quite independent in its structure.

Q. You said that the Reich Group Industry was not a State office, but merely an organization of industry. Were the thirty-one economic groups, which you mentioned, State offices, and did the leaders of the economic groups or their members hold any positions as civil servants?

A. No. The economic groups, in the same way as the Reich Group Industry, were purely organizations of industry, and their leaders were not civil servants. They were men of industry. Neither the leaders nor the members of the advisory councils, nor the members of the technical committees, received any payment for their activity.

Q. On Page 85 of the Trial Brief the Prosecution asserts that Schacht in his capacity as Minister of Economics, on the 27th of November 1934, issued a directive, and I quote: "The practical effects of which consisted of leading to the Reich Group Industry governmental powers with respect to the German mobilization for war." Is that true?

A. I cannot remember any such directive. At any rate, the Reich Group Industry neither received governmental powers at all, nor did they receive any special powers with respect to German mobilization. This, in my opinion, was impossible because the Reich Group was not an authority.

Q. Mr. Doering, the Prosecution has neither proved nor asserted that the Reich Group, by this directive, received governmental power. They merely stated that in practical effect they had such governmental

powers. Please state—and I think you can remember—whether the Reich Group de facto had governmental power and exercised any power of issuing directives.

A. As far as I can remember, they never received any such authority.

Q. The Prosecution continues to state in the Trial Brief, and they say that it is an incriminating element that the Fuehrer principle was carried out in industry. You have drawn up an affidavit on that question for another trial. In order to expedite your examination, I should like to put that affidavit before you; and would you please tell me whether you wish to supplement or correct this affidavit, which you drew up on the 12th of March 1948?

A. No.

Q. I should like to ask the Tribunal to receive this affidavit in evidence with Identification No. 219.

THE PRESIDENT: What exhibit number will it bear, Dr. Siemers?

DR. SIEMERS: I'm sorry; I can't put it into evidence because it hasn't been mimeographed and translated yet.

THE PRESIDENT: Very well; but so we keep it straight, let's give it a number for the time being and mark it for identification, and then you can submit it later. What will be your next number—next exhibit number?

DR. SIEMERS: Exhibit No. 181.

THE PRESIDENT: Very well. On your promise, then, to have it processed and distributed we will have it accepted into evidence, if the Prosecution has no objection.

MR. SPEECHER: Well, Mr. President, we do have an objection.

THE PRESIDENT: Very well then we'll listen to your objection.

MR. SPEECHER: What reason is there, after this witness has been called here, for now burdening this record with a further affidavit concerning this matter. I think that generally we have indicated that there is either of one or two alternatives with respect to normal witnesses. With respect to defendants that is another matter. Now, we have had a lot of time in order

THE PRESIDENT: Well, Mr. Prosecutor, I see no substantial difference between offering an affidavit and then bringing in the witness to supplement his testimony contained in the affidavit, on the one hand, and using him as a witness and then offering an affidavit to substantiate his testimony. If it will shorten the court room time it seems to be sound reason why the reverse would be the same thing,

MR. SPEECHER: Well, that's been done where cross examination has been asked for and the witness has been brought here for some purpose, but that's different matter. There's no reason that whatever Dr. Sigmars wants to bring out he can't bring out before the Tribunal. The other thing, I understood some type of limitation or restriction had been made by the Tribunal against this continued piling into the record of additional non-contemporaneous documents, but I may be in error about that. There is no petition...

THE PRESIDENT: Well, now, Mr. Prosecutor, it's just as broad as it is long. If we sustained your objection, Mr. Sigmars could go over this affidavit. Now, if it will save your time and yours by accepting this affidavit, I can't see where the prosecution is hurt by it. Do you?

MR. SPEECHER: Well, I'm afraid I am interested a great deal in the procedure because I think it is exceedingly not calculated to encourage either discretion or, Your Honors, a certain amount of tendency on the part of counsel to get things in order at the proper time.

THE PRESIDENT: Well, then, on that basis, the objection is overruled.

BY DR. SIEMERS:

Q Dr. Doering, were there similar organizations abroad before the war as was the Reich Group Industry?

A Yes, there were similar organizations in every country which had any industry. As an example, I might mention the Federation of British Industries which already before 1933 had connection with Germany which later was taken up again. I remind you that there were German-British industrial conferences even in 1939. As far as I remember, these conferences even led to an agreement between these two organizations. Before the war already similar conferences were held with the Italian industrial associations.

Q I should now like to put to you Prosecution Exhibit 69 in Document Book #3, page 152. A number of gentlemen are mentioned here who were appointed to the General Council of Industry. What was the significance of this General Council?

A I don't believe it had any practical significance because it was never heard of later.

Q Do you have the document before you?

A Yes.

Q Since this is brought in connection with support given to Hitler for his aggressive purposes will you please tell me who of those gentlemen cannot be considered as typical National Socialists.

A No doubt there a few among them.

MR. SMUCKER: Just a minute. May we have either Dr. Siemer's definition or also the witness's definition of a typical National Socialist?

THE PRESIDENT: Objection is overruled. You can cross examine the witness as to what he means by that if you care to. The objection is overruled.

BY DR. SIMMERS:

Q Would you please reply to my question?

A Naturally I can only base myself upon my personal impressions and not upon actual knowledge. For instance, I think it is out of the question that Geheimrat Bosch had anything to do with the Party. Dr. Hackelberger, who is mentioned here, as far as I am informed, was a member of the Centrum Party. He certainly had nothing to do with the National Socialist Party. I don't believe that Dr. Krupp von Bohlen und Halbach was a Party member. Furthermore, I don't believe that Karl Friedrich von Siemens was ever in the Party in view of his general attitude. I neither assume that of Dr. Voegler.

Q I think that will suffice.

We shall now touch upon another field. How did the Advertising Council for German industry originate?

THE PRESIDENT: Dr. Siemens, I assume you will not go into the subject matter of the affidavit which you have said you will supply. It's not before us so we cannot check on it.

DR. SIMMERS: No.

THE PRESIDENT: Very well. Go ahead.

BY DR. SIMMERS:

A The idea of the foundation of an advertising council was conceived of the then Secretary of State Funk from the Ministry of Propaganda. The Advertising Council was intended to be an organization which was to settle and supervise all industrial advertising. We welcomed such a legal settlement because there was considerable disorder in that field. In the further course of events, however, very many frictions occurred in the Advertising Council because our opinion the rigid coordination of the entire industrial advertising by an agency outside of industry meant a restriction of the free movement of industry in the field of advertising. As a result of the foundation of this Advertising Council the Reich Group Industry was compelled to form a special committee for

industrial advertising in order that in this manner they would have a possibility to form their own opinion in this field.

Q May I interrupt you, Mr. Goering? One technical remark. You don't have to speak so slowly when you are making complete sentences. If you want to pause, pause after the sentence. This makes it much easier for the interpreter to catch up with you.

Did the Advertising Council or the committee which you mentioned with the Reich Group Industry have anything to do with preparation for war with industrial espionage?

A No. Both agencies dealt with purely technical work which was in the field of economic advertising. The Advertising Council was prohibited to be active politically. The name industrial Advertising" was consciously formulated in that manner in order to prevent any confusion with political propaganda.

Q How did it come about that Dr. von Schnitzler was appointed a member of the Advertising Council?

A Herr von Schnitzler because of his capacity as chairman of the Exhibition and Fairs Committee was appointed. The chairman of that committee had to be as particularly experienced in that field as he was. Already in 1929 he was German Reich Commissar for the World Exhibition at Barcelona. Since that time he was largely interested in such questions. In addition, he had considerable international relations.

Q Were the committees for industrial advertising and exhibitions and fairs influenced by Party politics?

A Both these committees were intentionally kept free of political matters.

This is due to Dr. Schnitzler's leadership and on various occasions even led to frictions with the Advertising Council as well as with the Ministry of Propaganda. To give example, I might state that the Ministry of Propaganda for a long time looked with disfavor upon Mr. von Schnitzler

and me because of our rejecting attitude toward a large planned exhibition which was to take place in Berlin on the occasion of the Olympic Games of 1936. At that time we firmly rejected to participate in such an industrial exhibition, and to approve that it be held before globetrotters and sportsmen.

Q Did Schnitzler's international relations have any practical effect in the field of advertising and exhibitions?

A Yes. I already mentioned his activity when he was the chairman of the exhibition at Barcelona. At a later time he also attended the opening of the Paris World Exhibition in 1937 as an honorary guest and, furthermore, upon invitation of the Italian Industrial Association in 1939 he gave a lecture there pertaining to fair and exhibition matters. Let me point out in particular that the International Chamber of Commerce in Paris appointed him as the chairman of their committee for fairs and exhibitions. He, as far as I know, had very lively connections with the International Chamber of Commerce. On the occasion of the large congress in Berlin in 1936 he was one of those gentlemen who made on their houses available for the reception of the participants in this International Congress.

Q On page 55 of the Trial Brief the Prosecution asserts that von Schnitzler was appointed to be chairman of another propaganda agency, I. ALA, and that the President of the Reich Press Chamber and Reich Leader of the National Socialist Press became Schnitzler's deputy. Is that right?

A The Ala was not a propaganda agency. In particular, it was not an agency for political propaganda. It was merely an advertising office. As far as I remember, Dr. von Schnitzler was not even a chairman of the Aufsichtsrat of the ALA.

DR. SIEMERS: Your Honor, for the record I might state that this becomes apparent from the Prosecution Exhibit 773, Book 44, page 66.

Q I should now like to turn to the matter concerning association for the Promotion of Sales. The Prosecution on page 71 of their Trial Brief states that Farben through the defendant von Schnitzler, and I quote: "In the spring of 1940, under the name of 'Company for the Promotion of Sales,' set up an organization which was under his supervision and which was to serve as a cover agency for the espionage agents sent abroad by the Abwehr."

Would please testify to that matter?

A Everything imaginable is wrong in that sentence. The company was founded long before the war, as far as I remember, in 1937. It was not a company for the promotion of sales. It was not designated that way originally but was called the "Studiengesellschaft fuer Verkaufsforderung und Werbung," a company for the study of sales promotion and advertising. This was later changed into "Company for the Promotion of Sales." The reason was that one wanted to avoid any confusion with the scientific institutes.

Q Was Farben initiating that foundation?

A I merely want to add that one has to avoid a confusion with an advertising agency.

Q Did Farben initiate the foundation?

A No.

Q How about von Schnitzler?

A No, Mr. von Schnitzler didn't originate that foundation. It was a certain Richard Kuenzler. Richard Kuenzler was formerly active in the Reich Technical Committee of Professional Technical Experts. He founded this enterprise because he left that office.

Q And now the most important point: was it meant to be a cover agency for espionage agents sent abroad by the Abwehr?

A The purpose of this company served exclusively the study of market research and market analysis; that is to say, acquisition of material for the planned domestic and foreign sales and advertising in that connection. It had nothing to do with any military or state agencies.

Q Was this a public trade company?

A Yes, it was an organization of public law.

Q What was Schnitzler's connection with that association?

A Schnitzler was a member of the so-called administrative council. This administrative council was created because Kuenzler asked industry when he founded that company to support him in some manner. A number of industrialists belonged to that administrative council who had special experiences in the field of advertising. I don't recall all the names now, but, apart from Herr von Schnitzler, I may mention Reinhold Kruse who was a co-proprietor of the paper firm, Max Kruse, Dr. Seng, a special advertising consultant, Dr. Morgenstern, the head of the Information and Press Department of the German Bank. I myself was a member of the administrative council as an expert from the Reich Gruppe Industry.

Q How often were there meetings?

A As far as I remember, there were two to three meetings per year initially. They were of representative and advisory importance; as a result of transportation difficulties, they

only occurred infrequently later and finally stopped altogether.

Q Who issued orders to that association?

A Firms belonging to medium and small industry, which had not machinery to go into these various market analysis. At a later date larger firms gave orders too. I believe I can remember that the Mercedes Shoes factory and the Agfa in their photographic field gave orders to them.

Q At any one time were orders given to the association by Major Bloch, the head of the Abwehr of the Wehrmacht?

A Yes, that was only the case after the outbreak of the war. I remember that Mr. Kuenzler one morning told me full of pride that even the OKW was using the work of the company in economic fields.

Q Did Kuenzler ask you beforehand about this matter -- I mean von Schnitzler and you -- and were you in agreement with this new development during the war?

A No, he didn't ask us and we weren't overjoyed about this new connection. It was our opinion --

THE PRESIDENT: I was just going to observe, Doctor, that I fear your watch is not keeping up with our clock. You said you were going to use 45 minutes. You have used an hour and a half and I thought I better remind you, that perhaps you had forgotten. We would like, if we can to complete the examination of this witness today so we can make a fresh start on something else tomorrow. Do you think you can do that?

DR. SIEMERS: Yes, I think so.

Q Dr. Doering, I think you can speak a little faster. I think the interpreter, if he doesn't catch up, will flash the yellow light.

A I can repeat that Kuenzler didn't ask us and we weren't overjoyed about this connection. It was our opinion that the

use of the association by a state and military office would disturb the private economic character of the association. In addition, the financial situation of the association which was never sound was endangered by the fact that the state agency did not pay sufficiently for the work they used.

Q Could the administrative council, if they were not pleased with such orders, prohibit the association to accept them?

A No, as far as I know, they were not able to do that, that for a dual reason. The administrative council was not in a position to prohibit the acceptance of orders as long as they were within the sphere of activity of the association. Beyond that it would have been impossible for the chief during the war to tell the OKW that they were refusing such orders.

Q Do you know whether these orders concerned economic questions or whether they concerned military or political matters or even espionage matters?

A As far as Kuenzler informed us, these assignments concerned exclusive economic matters, information on economic matters, as the name of the association implies.

Q You just said that as a result of these orders by the OKW the financial situation of the company was endangered. Was anything done in order to support the association financially?

A Yes, they endeavored to find some way in order to help the association financially. The thought was entertained to ask a number of large firms to give them credits to a limited extent in order to finance assignments to be given later. Farben through the mediation of Mr. von Schnitzler, gave us 10,000 marks. Further amounts as far as I remember, were given by the firms, AEG and Siemens, but I think that these were smaller amounts, approximately 5,000 marks.

Q Why was Schnitzler asked to join the administrative council?

A In my opinion, he was asked to do that because he was the chairman of the Reich Gruppe Industry Department for Industrial Advertising.

Q You said that the administrative council was rather displeased about the orders of the OKW. Did you in any way concern yourself with these orders? Did you do anything about them?

A We repeatedly considered whether we were to withdraw from the administrative council or not. At first we postponed that course of action because our assignments were within the framework of the economic tasks of the association. When, however, the head of the association, Mr. Kuenzler, left Berlin for some time and when he appointed a deputy whom we didn't know and when we were no longer cabled to serve the entire situation, I asked Mr. von Schnitzler, also Mr. Krueso, whether or not we could withdraw from the administrative council. Herr von Schnitzler immediately agreed and asked me to write to the association in that sense.

Q When did that take place?

A As far as I remember, that was in late 1942 or early 1943.

Q Who was Freiherr Yesco von Puttkammer?

A Freiherr Yesco von Puttkammer, as Herr Kuenzler told me, after the war, was an employee of the Association. As far as I remember he left again after a few months.

Q Did Kuenzler, the Chairman of the Association, ask you about the appointment and the dismissal of Puttkammer?

A No, he didn't ask us about that.

Q Was Puttkammer appointed into this Association for the promotion of sales through the intervention of the Wehrmacht?

A I think that is out of the question. Kuenzler never told us anything to that effect.

Q The Prosecution asserts in the Trial Brief, on page 71a, that Puttkammer and I quote, "was an official of the company for the promotion of sales and went to Shanghai for that company on a special mission;" is that correct?

A In my opinion it is entirely out of the question. We were clearly told that Puttkammer as an employee had left the Association.

Q The Prosecution continues to assert that Puttkammer and I quote, "was the Chief of the Nazi propaganda in China and was carrying on espionage work there"; do you know anything about that?

A No, I know nothing about that whatsoever. After the man left, I completely lost sight of him.

Q Your Honor, with respect to Puttkammer, the Prosecution in Document Book 49, submitted two documents. I ask the General Secretary to give this Document Book to the Tribunal. This is Exhibit 937 and 939, on pages — I think it is the 3rd and 4th but last document of the book on pages 180 and 181 in the German book. This does not help you much, but I do not know the English page.

JUDGE MORRIS: 132 and 138 I think, in the English.

DR. SIEMERS: Thank you, Judge Morris.

Under 937 we are concerned with the minutes of the interrogation

of Kirokawa Ikuzo of 16 July 1946, and it contains reference to Putkammer's behavior. Document 939 is a judgment of the American Military Tribunal of 17 January 1947 in Shanghai. It concerns the charges against Putkammer, and either during the time from, as it says, between 8 May and 15 August, 1945, I should like to object to these two documents, and I ask that they be stricken. Mr. Sprecher has raised objections with reference to my documents that concern a period of time after the unconditional surrender, and that they, therefore, cannot properly be submitted. I believe that I can also use that very same reason with respect to these two documents, which are exclusively concerned with events after the unconditional surrender of Germany. That is in particular what Putkammer is being charged with, and I ask that these two documents be stricken, because they are referring to any period after the unconditional surrender of Germany.

MR. SPRECHER: Documents referring to any period after the unconditional surrender of Germany, we are content that they should be stricken. If there is other evidence there concerning Putkammer, which is in that record we think it should remain.

THE PRESIDENT: The charge as it appears is that between May 8 and August 15 1945, that Putkammer, etc. were guilty of this conduct. Is there any showing that their operations related to a period prior to that, Mr. Prosecutor? Is there any other evidence in the record, Mr. Prosecutor, besides the judgment that shows the period of time that is involved in Putkammer's conduct?

MR. SPRECHER: I think there was some type of affidavit attached to that document. I do not have my English copy here. We don't --

THE PRESIDENT: Do you want an opportunity to call our attention to the evidence that you think would make this competent?

MR. SPRECHER: This includes an interrogation before that Tribunal which refers to Putkammer's activities before 1945.

THE PRESIDENT: That is what I would like to see. I don't see it.

Just a moment. That is a different document, Mr. Prosecutor, than the judgment.

MR. SPRECHER: We do not have our English copies here.

THE PRESIDENT: I am asking you would you like to have some time to look into it.

MR. SPRECHER: Yes, Your Honor.

THE PRESIDENT: Very well, then you will call that matter up again after the Prosecution has an opportunity to examine its documents, Dr. Siemers, and then we will hear you further on it.

MR. SPRECHER: Could I borrow, just temporarily, your copies. I see you have your copies.

THE PRESIDENT: Sure, you can have mine.

Go ahead with your examination while Mr. Sprecher is looking that up.

BY DR. SIEMERS:

Well I can finish it now.

Q In the Reich Group industry as far as you could tell, did you know of any military plans of aggression against Austria on the part of Hitler?

A No.

Q Did the Reich Group Industry know of any aggressive plans by Hitler with respect to Czecho Slovakia, or did you personally know of any?

A No. In March of 1939, I happened to be on a trip in France, after the occupation of France and the setting up of the protectorate. I learned from a French paper when I traveled from Lyon to Paris. I was quite horrified about it.

Q Did you in the Reich Group Industry know of Hitler's intention to wage an aggressive war against Poland?

A No.

Q Since you before the war and during the war reportedly contacted

Mr. von Schnitzler, would you please tell me whether any one utterance, or any particular attitude of Schnitzler on the occasion of your meeting, indicating that Schnitzler knew of Hitler's aggressive war plans, or that he participated in any preparation for an aggressive war?

A Never. I can say that with certainty because in view of the entire attitude of Herr von Schnitzler, such utterances would have impressed themselves on my mind. Before and during the war on many occasions I met Mr. von Schnitzler socially and in business, and know of all of his numerous international connections, and I know what his economic international attitude was. During the entire duration of the war there was hardly one discussion with him in the course of which he did not voice his pain about the outbreak of the war, and his anxieties about the international economic relations, which became worse and worse as the years progressed.

I think that it is a tragedy that this particular man is being charged with having supported an aggressive war.

DR. SIEMERS: I have no further questions.

THE PRESIDENT: Any other questions from the Defense Counsel? Can you start your cross examination, Mr. Prosecutor?

MR. SPRECHER: Concerning that exhibit, Your Honors, I think Dr. Siemers is absolutely correct. There is nothing in there from before that time.

THE PRESIDENT: Now does that apply to Exhibits 937 and 939 both, or to just one of them?

MR. SPRECHER: I understand it was only one exhibit, but I have handed the book back, so I cannot tell you.

THE PRESIDENT: Dr. Siemers, to which exhibit did you direct your motion?

DR. SIEMERS: My motion was directed to 937 and 939. 937 is the interrogation of Ikuzo about Puttkammer's activities in 1945.

THE PRESIDENT: Mr. Prosecutor, did you examine the interrogation to see whether or not —

MR. SPRECHER: Mrs. Kaufmann informed me that the first exhibit,

so far as number is concerned, 937, does not contain material from before 1945.

THE PRESIDENT: Dr. Siemers motion is overruled as to Prosecution Exhibit 137, and sustained as to Prosecution Exhibit 139, — 937. I will repeat. The motion is overruled as to Prosecution's Exhibit 937 and sustained as to 939. Exhibit 939 is now stricken from the evidence.

DR. SIEMERS: I beg your pardon, Your Honor. If I understand Mr. Sprecher correctly, he said that as far as the document refers to the period of time after May 1945, he would be in agreement with the striking of it. The document 937 only refers to questions of the position of Hirokawa Ikuo but all of the decisive points contained in that document refer to the period after 1945.

MR. SPECHER: In so far as this statement is true we are agreeable.

THE PRESIDENT: What about that Mr. Prosecutor. Can you call our attention to anything in that interrogation that shows that it relates to the conduct of this party before the end of the war?

We will just take a moments time and determine that issue now.

The Tribunal's ruling will stand. On page 1 of the interrogation is this question:

"Q Did Puttkammer and his information bureau continue to cooperate with the Japanese Army after the German surrender?"

The answer is: "I believe they did."

That would support an inference that he might have cooperated before the surrender, and the motion is overruled.

The Tribunal will now rise until 0900 hours tomorrow morning.
(TRIBUNAL IN RECESS TIL 0900 HOURS MAY 4, 1948)

CERTIFICATE OF COMMISSIONER

Under directives of United States Military Tribunal No. 6, testimony of witnesses listed below was required to be taken before the undersigned Commissioner. Pursuant thereto the said Commissioner has conducted hearings at which the following witnesses have fully testified:

<u>Date</u>	<u>Name of Witness</u>	<u>Official Transcript</u>
8 April 1948	Walter Warlimont	10875-10907
9 April 1948	Eurt Krueger	11128-11163
12 April 1948	Karl Weber	11165-11175
12 April 1948	Paula Ester	11177-11199
13 April 1948	Ernst Struss	11293-11338
14 April 1948 &	Christian Zahn	11444-11490
15 April 1948	" "	11587-11612
16 April 1948	Bernhard Schoener	11706-11723
19 April 1948	Adalbert Feindal	11827-11841
20 April 1948	Josef Grobel	11842-11860
20 April 1948	Gustav Pieter	11861-11878
21 April 1948	Emil de Haas	12098-12128
21 April 1948	Heinrich Schuh	12129-12140
23 April 1948 &	Heinrich Schindler	12337-12370
28 April 1948	" "	12707-12777
26 April 1948	Walter Kikuth	12461-12498
26 April 1948	Hans Seuer	12500-12512
27 April 1948	Wilhelm Duellberg	12598-12621
29 April 1948	Theo Goldschmidt	12871-12909
29 April 1948 &	Anton Leithinger	12910-12953
30 April 1948	" "	13075-13092
29 April 1948 &	Rudolf von Spretty	12954-12960
30 April 1948	" "	13065-13075
30 April 1948,	Rudolf Schmidt	13093-13133
5 May 1948 &	" "	13620-13629
6 May 1948	" "	13651-13719
→ 3 May 1948	Wolfgang Alt	13246-13269
3 May 1948	Carl Gadow	13271-13291
3 May 1948 &	Kurt Hartmann	13292-13316
4 May 1948	" "	13412-13460
4 May 1948	Fritz Dion	13450-13460
4 May 1948	Kurt Eisfeld	13461-13479
4 May 1948	Adolf Taub	13480-13489
5 May 1948	Ernst Struss (for Pres.)	13566-13619
6 May 1948 &	Werner Schnitz	13720-13735
7 May 1948	" "	13861-13891
10 May 1948	Max Winkler	14173-14181
10 May 1948	Fritz Hirsch	14195-14209
10 May 1948	Ernst Kraschewski	14210-14220
10 May 1948 &	Franz Fuerstenberg	14221-14245
11 May 1948	" "	14377-14384
11 May 1948	Heinz Sawoleberg	14387-14424
11 May 1948	Karl Rumscheldt	14425-14439
11 May 1948	Reinhold	14440-14455
10 May 1948	Friedrich Selcher	14482-14494

During the said proceedings the following exhibits have been offered in evidence:

PROSECUTION EXHIBITS

<u>Exhibit</u>	<u>NI No.</u>	<u>Official Transcript</u>
2302	PS 2353 C	10899
2303	L79	10904
2304	11036	11145
2305	11034	11182
2306	15070	11183
2307	11236	11302
2309	11232	11312
2311	15062	11327
2312	15063	11330
2314	11257	11468
2315	13524	11473
2316	11256	11473
2317	11251	11485
2318	11252	11476
2319	11014	11482
2320	11039	11834
2321	13084	11818
2328	10532	12615
2329	10528	12616
2323	10907	12706
2330	13525	12733
2331	15021	12878
2332	3763	12915
2333	15145	12921
2334	15116	12923
2335	8647	12927
2336	15132	12933
2337	1514	12942
2338	11098	13106
2339	13534	13111
2340	15215	13126
2341	15260	13620
2342	15173	13286
2345	7637	13728
2346	7666	13730
2352	15290	14382
2353	15296	14392

I, the undersigned Commissioner, do hereby certify that the aforesaid official transcript pages comprise a full, true and correct report of such proceedings, testimony and evidence heard and recorded therein before me.

Dated at Nurnberg, Germany, May 28, 1948.


 JOHNSON T. CRAWFORD
 Commissioner of Tribunal No. 6

Official Transcript of hearing before a Commissioner for Military Tribunal VI Case VI, in the matter of the United States of America against Karl Krauch et al, defendants, sitting at Nurnberg, Germany, on 3 May 1948, Commissioner Johnson T. Crawford presiding.

THE MARSHAL: The Commission for Tribunal VI is now in session.

DR. HOFFMANN (For defendant Ambros): Mr. Commissioner, the prosecution requested the witness, Dr. Alt, whose affidavit is contained in Document Book III-A for cross examination. Dr. Alt is in the witness stand and before I yield him for cross examination on his affidavit I would like to ask him whether he wishes to add or change anything in his affidavit.

DR. WOLFGANG ALT, a witness, took the stand and testified as follows:

THE PRESIDENT: The witness has not been sworn and is in a position to be sworn. You will raise your right hand and repeat after me:

I swear by God, the Almighty and Conscience, that I will speak the pure truth, and will withhold and add nothing.

(The witness repeated the oath.)

THE PRESIDENT: You may be seated.

DIRECT EXAMINATION

BY DR. HOFFMANN:

Q. Dr. Alt, now that you have been sworn in, I would like to ask you again, do you wish to add anything to your affidavit?

A. I would like to make a small addition to my affidavit. In my affidavit, I comment about the events at the Fifth Session of the Committee "K" on 30 January 1941. The inspection of the Auschwitz site took place after that committee session. Dr. Ambros participated in that inspection, after that he traveled to Berlin to negotiate with official agencies and after that he went on leave. He returned from his leave during the last days of February and after he had been in Ludwigshafen for sometime again, that is as far as I can recollect, during the first ten days of the month of March 1941 — the following happened. One morning I

was called to Dr. Ambros. When I entered his room, he was standing in the corner of that room and one hand was still lying on the telephone so that I gained the impression that he had just called somebody up. Without waiting for me to ask him why he called me, he said, obviously annoyed, "Now some idiotic fellow in" - then he mentioned some name of a location. I don't know whether he said Berlin or Breslau or perhaps Kattowitz. At any rate, it was a name of a location; I know that. Now I shall repeat the sentence again: "Some idiotic fellow in had a notion that we should build Auschwitz with concentration camp inmates. One does not construct a Buna plant with forced labor." I wanted to mention this occurrence because, of course, it is of some importance for the description which I have given here.

Q. Mr. Commissioner, to identify this, in this connection, I shall introduce a document. It will be given Exhibit No. 194, and is Document OA-139. This is a confirmation by the Mayor of the Etthal community which expresses that according to entries in the visitors register Dr. Ambros was stayed at the Benediktinerhof, Etthal with his family, from February 10 to February 24, 1941. I have no further questions to the witness.

CROSS EXAMINATION

BY MR. HINSKOFF:

Q. Mr. Witness, I am rather interested in this addition you just made to your affidavit, particularly in view of the fact that the affidavit seems to describe rather completely what occurred at the time. Mr. Witness, may I ask when it was that it occurred to you that you had this conversation with the defendant Ambros?

A. This goes back to the time when I had that conversation, every since I have remembered it.

Q. Did you remember it at the time you made your affidavit?

A. Yes.

Q. But you didn't think it important enough to include in your

affidavit at that time, did you?

A. At the time I even thought of it, but I was advised to refer in my affidavit only to the matters that were of importance and not to recite more personal events which sometimes looked a little strange in writing. I had tried to formulate it in writing, but it wasn't very successful.

Q. Mr. Witness, is it possible that this incident seemed somewhat more important after the prosecution made available to the defense a letter from the defendant Krauch to the defendant Ambros in which he pointed out that it was at his request that Goering issued the orders making concentration camp inmates available?

A. No.

Q. Mr. Witness, there has been much testimony on the part of the defense about an order that Farben is supposed to have received to build a fourth buna plant at Auschwitz. Now can you tell me to the best of your recollection when that order was given to I.G. Farben?

A. May I just ask again, did I understand your question correctly to be, as far as I remember I am to tell you when the order was issued to use concentration camp inmates at Auschwitz — when I heard about it?

Q. No, no. The question is when Farben received the order to build the fourth buna plant at Auschwitz. I didn't speak of inmates.

A. I heard about the request that a fourth buna plant was to be built when during the first days of January 1941 I was transferred from the main laboratory where I had been until then, to Dr. Ambros, in order to work for him. I don't know who told me about this for the first time, whether it was Dr. Ambros himself or Dr. Bisfeld.

Q. I am not sure that you have understood my question correctly. I wasn't interested in finding out when the order came through to build a fourth buna plant, but I did want to find out if you recalled it — when the order came through to build a fourth buna plant at Auschwitz?

A. I would like to answer in the following manner as can be seen from the documents here during the session of Committee K. Farben suggested the Auschwitz site for technical reasons. The site was then inspected and then discussions took place in Berlin — as far as I know, in the Gobiachem and in the Reich Ministry of Economics.

Q. Go ahead. Do you want to finish?

A. I merely wanted to add that following that discussion, the order

was issued, as can be seen from the supplement to the record of the Committee "K" session, and this supplement was made when Dr. Bisfold, who was always present during the inspection trips, returned to Ludwigshafen after his journey via Vienna; whether he himself already brought this information with him or whether he only heard about it later, I cannot say any more. At any rate it existed before the 18 of February — that is the date the record of the session Committee "K" was released.

Q. We are getting more confused than clarification now. Let me understand your testimony; is it your testimony that the decision to build at Auschwitz was made by Farben and not by the direction of the government?

A. You said "decision." The decision where the buna plant was to be built, could not be made by I.G. Farben as far as far as I know. They could merely suggest something.

Q. I don't want to be technical with you; the suggestion that Farben's site for the fourth buna plant be at Auschwitz came from I.G. Farben itself, isn't that right?

A. I believe in my affidavit, not so much my affidavit as in the quotation in it, which is an excerpt from the minutes of the session of the Committee "K", — this is clearly expressed.

Q. The document is in evidence, Mr. Witness; we can read the document.

A. I can't find the place now but it says there that "owing to the technical considerations, it was suggested to the Reich agencies that this site be chosen because it seemed the best."

Q. Now the committee that you are referring to, this Committee K, that consisted of the defendant Ambros, as chairman, and the defendant Ter Meer, and a number of other persons from I.G. Farben, isn't that right?

A. I believe if one wants to be quite correct, one has to say that Dr. Ter Meer was not a member of this committee.

Q. He was present at the particular meeting you are referring to?

A. He was present, at that occasion, I saw him for the first time, and

the committee considered the case and reached the conclusion that Auschwitz was the most suitable site in Upper Silesia, for technical reasons, and I understood this to mean that the committee submitted their conclusions to Dr. Ter Meer and that on the basis of these conclusions and the approval of Dr. Ter Meer as Chief of Sparte II, negotiations were to take place in Berlin, pending confirmation after the inspection trip had taken place.

Q. If you would just answer the question that I put, we would save many subsequent questions. Now you are going into the question of the decision or the suggestion arrived at at that meeting. Now Ter Meer was present all during that meeting and so was the defendant Ambros, isn't that correct?

A. As far as I know, yes.

Q. Now after a suggestion is made by that meeting in which both were present and the sense of the meeting was to suggest the Auschwitz site, why was it necessary for the defendant Ambros thereafter to make a personal inspection trip to see whether the site was suitable or not?

A. In my opinion, the following reason existed for this; choosing a site for a large plant, after all, is an important matter, and the documents which Committee K had up to then — that is, Dr. Ambros — did not represent his own personal opinion. At the time I understood it to mean, and I still do now, that Dr. Ambros wanted to convince himself by looking at it himself, as to whether the information given to him in the documents actually was correct on all points or whether perhaps something important had been omitted or represented in the wrong manner.

Q. Now, Mr. Witness, from your experience in I.G. Farben, is it customary for committees of the importance of this K Committee to first make their decisions and then investigate the facts to see whether they are accurate? Was it customary to first investigate the facts and then have the meeting to make the decision?

A. I would like to say that in general the latter was chosen, if there was time, but I only remember that at the time the official authorities

pressed us for time on that matter. At the same time, the preparations and the first work for the construction of the third buna plant in Ludwigshafen were pending and the official agencies also wanted to have preparations made simultaneously for the fourth buna plant in Upper Silesia.

Q. Mr. Witness, in your affidavit you state that the engineer Faust inspected the Auschwitz site and that he telephoned his report to Director Santo, and that Santo in turn made a file memorandum of this telephone conversation with Faust, and that that file memorandum served as a basis for the decision of Committee E on January 30th to suggest the Auschwitz location for the fourth buna plant. Now, Mr. Witness, is it your testimony that a project of 500 million marks was decided upon on the basis of a file memorandum of a telephone conversation between two persons, neither of whom were even present at the meeting, is that your testimony?

A. Mr. Prosecutor, it is impossible for me to answer yes or no to that question. May I explain this very briefly? It wasn't just the report about the telephone conversation which Mr. Santo made, but also a great number of maps had been studied and information had been gathered about the rivers which met there and about the railway and road conditions. I remember that Dr. Sigfeld told me at the time to gather information in the Mannheim library about conditions there, and apart from that, I would like to repeat no decision was reached. It was merely a discussion of the information in hand, the result of which was that if this information would be found correct, it would be decided that this was the best site.

Q Now, Mr. Witness, can you tell the Court just what other reports, as to conditions at the Auschwitz site, you had before you, other than this file memorandum of a telephone conversation?

A At the beginning, I mentioned that during the first days of January, the main laboratory transferred me to Dr. Ambrose. My first assignment consisted of ...

Q Wait, Mr. Witness. Just a moment. Did you hear the question that I put?

A I am about to answer.

Q The question merely was, what other documents, what other reports, were before that meeting, other than the file memorandum of a telephone conversation?

A Among other things, a great number of calculations, some of which I had made myself, and which showed quite clearly that, from an economic point of view, Auschwitz was the most logical site.

Q You still haven't answered the question. Don't you recall any other reports? There were a number of Farben men who made inspection trips. There were top engineers who examined that property. Now, the question to you is, when this meeting, this all-important meeting of 30 January took place, did you have any of these other reports in front of you, other than this file memorandum of a telephone conversation, in order to reach the important decision for a 600 million mark Buna project?

Your question is that you want to know what the other gentlemen had before them as to documents or what I had myself? Could you please clarify that?

Q You were present at the meeting, were you not?

A Yes.

Q The meeting had certain discussions, did it not? The purpose of the meeting was to decide upon a site for a tremendous Buna project. Now, you listened to those discussions or you wouldn't be testifying here today.

Now, when those discussions took place, were they based upon any reports as to the conditions at Auschwitz which the meeting had before it other than the one memorandum referred to in the affidavit — this file note that made of a conversation over the telephone with Faust who had visited the Auschwitz site?

A Certainly other documents existed as well, otherwise Dr. Ambros could not have made so many suggestions in Committee K about getting coke and lime from various locations. At the time I based my work mainly on these calculations and on my participation in various meetings with Dr. Eisfeld as well as with Dr. Ambros etc., in a small circle where these matters were discussed. If I had remembered any other official or other written documents, I would have used them for my affidavit. But that is not the case.

Q And although you are presently at the Ludwigshafen plant, where Santo is and where the others are, you have found no other documents which were considered by that meeting, is that right? I assume if you found them, you would put them in your document book, is that right? Or at least you would have referred to them in your affidavit, is that right?

A I gained the impression that you asked several questions. Will you repeat that?

Q Perhaps you are right. You are presently located, as well as in Nuernberg also in Ludwigshafen where there are Dr. Santo's files and other files. Now, my question to you simply is this, that, with the availability of documents directed to you, do you know of any other documents which were considered by that meeting which we have before the Tribunal now?

A I don't know of any.

Q Thank you. Now, Mr. Witness, you state in your affidavit that nothing was known of the existence of the concentration camp, and therefore nobody, of course, knew of any allocation of concentration camp prisoners when the decision was made in favor of Auschwitz.

Now, when you made that statement under oath, did you first investigate to find out whether other members of that Committee didn't have such knowledge? Or did you make your statement under oath based on a pure assumption?

A. Mr. Prosecutor, I cannot tell you any more whether, at the time, when I signed my affidavit, I discussed these matters with the other gentlemen, whom I could reach, and who also attended the session of Committee X. I think it can be found out from the dates. I can only repeat one thing. What I say here is independent of any conversation which I may have had during that time. This is my own recollection.

Q. Now, Mr. Witness, you made an affidavit in which you specifically state that nothing was known of the existence of the concentration camp, and therefore, nobody, of course, thought of any allocation of concentration camp inmates when the decision was made in favor of Auschwitz. Now, when you make an affirmative statement under oath of that type, I think I may inquire as to whether you investigated first to find out whether that was true or not.

A. Mr. Prosecutor, I wrote in my affidavit, that I myself, and according to my certain conviction, the other participants in the session of Committee X did not know about the existence of the Auschwitz concentration camp. That was my conviction at the time and it is still my conviction now and is also my best recollection.

Q. In your affidavit, Mr. Witness, you don't restrict it that way. In the beginning, you say, "Byway of summarizing, I am therefore able to confirm that in the existence of the Auschwitz concentration camp and the possible allocation of concentration camp prisoners as workers for the building site, did not play the slightest part whatsoever in the selection of the building location, because, as stated above, the existence of the Auschwitz concentration camp was entirely unknown when the decision was made."

Now, how could you know that it was entirely unknown unless you inquired whether the other persons knew about it?

MR. HOFFMANN: Objection, Judge Crawford, I object to this argumentation by the Prosecutor. It can be seen quite clearly that the witness expresses, at the beginning of his affidavit, that he, and others, have known about the existence of a concentration camp, and when one reads right through the affidavit, one can understand it. But when one takes out individual sentences, of the affidavit, it is quite clear that one can argue about them either way. This is a cross-examination and not an argument, and I want my objection to be noted in the record.

MR. MINSKOFF: May I merely state, for the record, that the single most important part of this entire affidavit, for the purpose of the case which is being tried here, is the one statement that no one knew about the concentration camp, and therefore they couldn't consider that as a factor in choosing the site. Now, the question to the witness is directed to that most important statement he has made, and we want to know whether all he wants to say was that he personally did not know of the concentration camp rather than that nobody knew about it.

MR. HOFFMANN: In reply to the statements of the Prosecutor, may I say briefly that in the German affidavit which I have, the decisive statement is where, it says, in German, that the possible allocations, I am quoting, "of concentration camp inmates labor on the construction site did not play any part, in fact. When the decision was reached, the existence of the concentration camp was not even known."

The Prosecutor, when he used his argumentation now, left out altogether the statement, "it did play any part." If one states this without the words contained in the affidavit, then, in my opinion the argumentation by the Prosecutor does not invalidate my objection.

JUDGE CRAWFORD: That seems to be sufficient now, so you may proceed.

BY MR. MINSKOFF:

Q Mr. Witness, the question I would like you to answer now is, would you want to modify the statement that you have made in your affidavit to the effect that no one knew of the concentration camp, and therefore

it couldn't be considered, to merely say that you personally did not know of the concentration camp?

A. No. The only thing I could possibly say is that the addition "as I stated above", on the line before the last of my affidavit, -- I believe that's how it reads in the English version -- practically expresses that the sentence on top of the second page, should be repeated here. This sentence reads: "I myself, and I am fully convinced the other participants in the session of Committee E who discussed the project of Auschwitz know nothing about the existence of the concentration camp Auschwitz at the time." At the time, my intention to discuss the matters with the other participants in order to state something which was the result of conversations. I wanted to state my own recollections, but I can add, that all of the participants to whom I have talked up to now, after giving you my affidavit, and perhaps even before, not one believed that anything was known then.

Q. Mr. Witness, we can be much more specific, then. The defendant Ambros was chairman of that meeting?

A. Yes.

Q. He was present throughout the discussion?

A. As far as I know, yes.

Q. Now, do you know, Mr. Witness, that the Defendant Ambros was informed as early as 11 January 1941 that Auschwitz was a reservoir of Jewish manpower, a Juden-Reservoir? Did you know that?

A. I didn't know that.

Q. Did you know, Mr. Witness, that on 16 January, the said Defendant Ambros knew that right next to Auschwitz was a concentration camp for the Jews and Poles?

A. No.

Q. Mr. Witness, I show you NI-11784. That document is a discussion attended by Defendant Ambros, where he himself asks for a report on Auschwitz, and the report that he received includes the sentence that

a concentration camp be built in the immediate neighborhood of Auschwitz for the Jews and the Poles. Did you see that document before?

A. I cannot say that. I do not remember it. The document, as far as it can be seen, was not drawn up in Ludwigshafen, but by Schlesien Benzin, on 18 January, before the meeting of Committee K. Then, of course, nothing is contained there which shows that it had not been read at the time. I even consider it possible that I might have read it, but I don't remember that particular sentence, myself. Dr. Ambros was very generous in letting me read everything, but it is quite possible that I for example saw a report which consists of 6 pages and which contained many technical details. I might have read through this without noticing this one sentence, "a concentration camp for Poles and Jews is being built", I might have read it and not take notice of it or not take it in and I might have forgotten it the next day. And, I am sure the same applies to Ambros himself.

Q. Now, Mr. Witness, just some preliminary questions before the next. This same report also went to Dr. Mach who was present at the Committee K meeting too, is that true?

A. As far as I know, Dr. Mach was not there all the time. Only part of the time. That is what it says then.

Q. And Dr. Eisfeld was also there?

A. He was there.

Q. So that, without going any further, there were at least Ambros, Mach and Eisfeld who were previously informed of the concentration camp and possibly yourself before the 30 January meeting, isn't that right?

A. I admit that there might have been the possibility that the four people whom you just named had briefly heard something about it.

But it had not been impressed on their minds of those present. I can only repeat that I am convinced that nobody, when the sessions of Committee K took place, knew about it.

Q. Now, Mr. Witness, let's go back to that little portion of the report which speaks of the concentration camp. I would like to ask you this question. When you contemplated building a six hundred million

nark project, did it ever occur to you that you might need some labor to build that project?

A Certainly.

Q As a matter of fact, that that time labor was a rather serious question in Germany, was it not?

A Yes.

Q And in order to build a project of that gigantic magnitude, very serious considerations would have to be given to whether you could obtain the necessary labor to build this project with speed, isn't that right? Your answer?

A Yes.

Q Now when you chose this site, that was a very important task for this Committee, and is it your testimony that the 6 page report was too much of a report to study each paragraph of it in making such an important decision?

A I do not wish to say that this report, if it was at hand, was not studied carefully. I merely want to say that I am convinced that this one sentence referring to the concentration camp was the least interesting matter, because in that connection it does not play a very important part concerning the building.

Q Let me put it in another way. Apart from the concentration camp, what immediate source of labor would you have for building this tremendous project in Auschwitz?

A The construction of such a large project anywhere in Germany would have caused great difficulties in obtaining workers. But, insofar as allocation of workers was concerned, that is unskilled workers, I know for certain that during the discussion before the meeting of the Committee and during the meetings the situation in Auschwitz was considered more favorable than anywhere else.

Q Now, still you tell the Court why?

A First of all, because in that district no such large industry

concentration existed. Secondly, because they hoped that the local Jews and Poles who resided over there would voluntarily work for the Buna plant. They only saw difficulties insofar as the expert workers and the departmental chiefs were concerned, and this is contained in the record of the session of Committee K; they realized that they had to make it look pleasant in order to attract the people from the West. That is why new housing projects were built.

Q. Now, if I understand your testimony correctly, the big problem you was skilled workers, and so far unskilled workers were concerned, you were thinking importing them from parts of Germany and other places, is that right?

A. Not quite. The term "skilled worker" as far as I know is too applied to those other than the department chiefs who would have the to be skilled people also, but not all skilled people could be chiefs.

Q. I am not being technical with you. The testimony was that the big problem was not common labor. That you could always get in the neighborhood among the Jews and Poles, and not other workers who would be more skilled would have to be imported and settled in that area?

A. As far as I remember, the problem of obtaining executives department head who had come from the I.G. Farben plants, held to be more difficult than obtaining common labor.

Q. Now, let's make this one point. As far as the so-called ordinary workers were concerned, or common labor, you say you were going to get them from the Jews and Poles in Auschwitz. Now, I refer you Mr. Witness, to the same paragraph which speaks of the concentration camp. That paragraph in this 18 January report states that the inhabitants of "Auschwitz consists of 2,000 Germans, 4,000 Jews, and 7,000 Poles." The Germans are peasants, and the Jews and Poles -- now listen carefully -- if industry is established here, will be turned out, so that the town will then available for the staff of the factory." Now, can you explain just how you counted upon the free Jews and Poles voluntarily

for I.G. Auschwitz after they had been turned out?

A It says here, in the German text -- and since this is written in German this would be the decisive version -- that they could be turned out. That is a plan which presumably the Reich authorities had.

I can state with certainty that during the conversations which took place in Ludwigshafen after at the time, in a small circle that is, Dr.

Ambros Dr. Eisfeld and various other gentlemen whom I don't remember, during these discussions at which I was always present, before or after the meetings, but at any rate absent the time after the plant was expressed that there was no point in turning these people out when we can not get camp workers anywhere else, why can't we leave them there. We could use them.

Q.- Well, that would only be without any sense if you had no alternative but if, as appears here, the Jews and Poles can go in a concentration camp and thus remain available, that would make a little more sense wouldn't it?

A.- This train of thought I hear for the first time from you.

Q.- I am merely reading from a document which admittedly the defendant Ambros had, which Dr. Mach had and Director Eisfeld had and possibly you yourself had, and there is one paragraph concerning labor in that document, and that paragraph speaks of the population. Now, that paragraph is the same paragraph which says that "Jews and Poles will be turned out if industry is established", and also says that "a concentration camp will be established for the Jews and Poles in Auschwitz". I just don't understand when you say now that you hear for the first time of this connection between the two. Perhaps you can explain it.

A.- Mr. Prosecutor, you are asking me today what was thought at the time in connection with this report about which I have told you before that I don't remember it. Therefore, I can only try to reconstruct what I presumably would have thought at the time if I had known it, and I can only reach the conclusion here that the nucleus - the most important word - is the word "would be". These are plans, and from the technical point of view only the suggestion would have been sensible: "Let us drop these plans; leave the Poles in their houses; let the Jews let them continue in their artisan trades. When the Buna plant is constructed this will only help the Buna plant by using these people as voluntary workers."

Q.- Mr. witness, in the K-meeting minutes themselves, that is, Ambros Document 312, to which you refer in your affidavit, the last paragraph says: "Much more difficult is the manpower situation. For the procurement of manpower it will be necessary to contact the Reich Commissioner for the Consolidation of Germanism. Also, substantial funds will be required for the building of settlements." Now, Mr. witness, can you tell the court who

is the Reich Commissioner - or who was the Reich Commissioner for the Consolidation of Germanism?

A.- During the last months here I learned that this was Himmler, but I would like to say here, this remark, "Reich Commissioner for the Consolidation of Germanism" was included in the record after Dr. Eisfeld returned from his trip. During the session of Committee K, it was said, "There is some Germanism office to whom one has to turn." Dr. Eisfeld brought this term along with him, and as can be seen from this document he even had it wrong, because originally it is not "for the consolidation", but for the "establishment of Germanism". I can not remember that at the time the name Himmler was mentioned, but it is possible. I do not know. At any rate, we understood that in order to obtain people and in order to build houses, we needed this, and this indication that for housing a lot will be required clears up your previous question, that the idea of expelling Poles and Jews was not mentioned during the session of Committee K, else we would not have had to build settlement.

Q.- You still need houses for the German workers, wouldn't you? In fact, all the reports speak of that. You could use the houses of the Poles and the Jews if they were thrown out, and that would not be enough either, and so of course you will have resettlement, for the skilled workers whom you are going to bring from the other parts of Germany to Auschwitz. But I don't want to get into a separate subject. I just want to ask one final question, Mr. Commissioner, and that is that at this meeting which you attended with men of the importance of defendant ter Meer, and defendant Ambros, they refer to a Reich Commissioner in January of 1941, and were completely unaware that that Reich Commissioner was the Reich Fuehrer SS, Himmler, himself. Is that your testimony?

A.- No. Mr. Prosecutor, I can only repeat that according to my best conviction - my most sincere conviction - during the sessions of Committee K the term "Reich Commissioner for the Consolidation of Germanism" was

not mentioned, but it was merely mentioned as "There is some Germanism office to whom one has to turn if one wants to get people there". The sentence "Reich Commissioner for the Consolidation of Germanism" which I took into the record of Committee X emanates from Professor Eisfeld, who brought it along from his trip. That is my best recollection.

Q.- Thank you very much. No further questions, witness.

JUDGE CRAWFORD: The Commission will be in recess for a few minutes.

(Here followed a recess.)

THE MARSHAL: The commission is again in session.

REDIRECT EXAMINATION

BY DR. HOPPMANN:

MR. Commissioner, I just have a few questions.

Q.- Witness, were you ever a member of the Nazi Party?

A.- No.

Q.- Were you ever a member of any National Socialist organization?

A.- Yes.

Q.- Which one?

A.- For one and a half years I was in the SA, as a student, and when I came to Ludwigshaven I remained there for a few more months and then I left it.

Q.- Were you ever a member of the SS?

A.- No.

MR. MINSKOFF: Now, this is redirect examination, as I understand, and I don't recall going into any question of his affiliations, so this is an entirely new subject matter being opened up.

DR. HOPPMANN: May I answer the Prosecutor that I do not believe that I am starting a new subject matter hereby, because I need those questions in order to explain the answer of the witness which was not understood by the Prosecutor. Why the agency of the so-called Volkskommissar for the Strengthening of Germanism was unknown to him.

MR. MINSKOFF: No objection.

Q.- Witness, did you ever concern yourself with ranks and other matters in the SS?

A.- No.

Q.- Does the expression Volkskommissar for the Strengthening of — or Reichskommissar for the Strengthening of Germanism contained anywhere — or, is in this expression to be found any reference to the SS, according to German usage?

A.- I found no such indication, and the expression as such made no deep impression on me. In the final analysis, I am a chemist.

Q.- Around Ambros was there any person, as far as you know, who had such connections with the Nazi Party that such a person could have informed you or Ambros about that?

A.- This question is difficult for me to answer. Certainly, among the people who worked with Dr. Ambros there were also Party members, but whether they were especially active, I don't know.

Q.- What about the circle about Ambros? What was its attitude toward the Party?

A.- Very indifferent to the Party. The circle around Dr. Ambros consisted of chemists and engineers and in every problem which was treated by and with Dr. Ambros the chemical and technical viewpoints were much more important than everything else, especially the Party.

DR. HOFFMANN: Thank you. No further questions.

DR. ROSPATT: Rospatt for Professor Krauch.

REDIRECT EXAMINATION - Continued

DR. WOLFGANG ALT

BY DR. ROSPATT:

Q.- Witness, in the direct and cross examination you commented on the statement of Dr. Ambros, according to which the latter said to you one day, "Well, there is such a crazy guy, " and he got the idea that the Buna Work in Auschwitz should be constructed by concentration camp inmates. Now

I ask you, did you have the impression that Dr. Ambros meant Professor Krauch by this "crazy guy"?

A.- I understood the remark of Dr. Ambros at that time to mean, and I still understand it this way, that Dr. Ambros referred to someone with this impression whose name I did not know. Otherwise in this case he would have said, "Well, Professor Krauch had that idea," — or Dr. Mueller, or somebody else had the idea. The general phraseology was an indication for me that somebody must have expressed this idea and at that time Dr. Ambros did not yet know who that was.

DR. ROSPATT: No further questions.

RECROSS EXAMINATION

DR. WOLFGANG ALT

BY MR. MINSKOFF:

Q.- Mr. Witness, just on the question of the Reichskommissar, I'd like to ask you this question: Have you ever seen the Document NI-11782, which is the — directed to defendant Ambros and dated 13 February '41, wherein it is stated that the — On page 61 of the German. It is stated that "the eviction of the Poles and the Jews is going to cause a great shortage of workers from the Spring of '42 on. It is therefore necessary to open negotiations with the Reich Leader SS as soon as possible. The question, Mr. witness, was: Did you see this document before?

A.- This document, which represents the report of Dr. Eisfeld about the inspection trip. I must have seen this report. I would assume so.

Q.- Yes, now Mr. witness — Now, Mr. witness, when he says Reich Leader SS, did you know that he meant Himmler at that time?

A.- Yes, of course, but I did not know that he meant the Reichskommissar for the Strengthening of Germanism by that — unless there is some special reference to that here, which I don't believe there is.

Q.- And the mere fact that in both cases, in a short interval — in a short interval — they referred to seeking help from the Reich Leader SS

and from the Reichskommissar for culture, or whatever is — Befestigung — it never occurred to you that those were both one and the same man?

A.- I'm trying to remember the reading of this report, but to the best of my conscience I must say that I remember nothing of a connection between these two concepts. There were so many Reichskommissars that it might have been Himmler as well as anyone else.

Q.- Now, Mr. witness, when the K-meeting was later written about, you mention about the 18th of February, this was the same man, Eisfeld? This is the same report, is it not, on the Auschwitz site, as referred to — what was — which was referred to by you as the write-up of the K-meeting?

A.- Mr. Prosecutor, I think I have to explain this further. The Commission K report was sent out on the 18th of February. It was drafted during the days after the 30th of January on the basis of my manuscript. When Dr. Eisfeld returned — I estimate that this must have been around the 6th or 7th of February — I, first of all, showed him my draft and then he told me about his impressions there. To my recollection, he told me then for the first time about the concentration camp and at that occasion — that is, quite a bit before the 18th of February ; right after his return — he also told me about this concept of the Reichskommissar for the Strengthening of Germanism and how this concept fit into my text and, as far as I remember, I didn't bother any more about it.

Q.- But obviously, Mr. Witness, Dr. Eisfeld wasn't one bit confused by the concept Reichs Commissioner for the Consolidation of Germanism because when he writes his report, he says Reichs Fuehrer SS. He knew exactly what the title meant.

A.- Mr. Prosecutor, what Dr. Eisfeld thought at the time, I do not know. In connection with the question as to whether the Reichskommissar for the Strengthening of Germanism was Himmler, the Reichs Fuehrer SS, or not, I don't think I ever talked to him about that. I merely wanted to

know what I had to put into my transcript, in place of the vague concept "some ethnic agency."

Q.- Now, Mr. Witness, I want to refer you one minute to the question of this telephone conversation that defendant Ambros had and which you just happened to walk in on. That was toward the end of the month of February '41, isn't that right?

A.- I didn't quite get the last part. When was it supposed to have been?

Q.- I'm asking you, when did this conversation, this telephone conversation that defendant Ambros was supposed to have had -- and you walked in just as he hung up -- what was the approximate date of that telephone conversation?

A.- Mr. Prosecutor, I've already tried from the beginning to fix this date as clearly as I can possibly remember. Dr. Ambros returned from his leave during the latter part of February and a little bit later -- not immediately later; just a few days later -- I can only say perhaps within the first 10 days of March, this thing took place, I can't fix it any more exactly.

MR. MINSKOFF: Thank you. No further questions.

THE COMMISSIONER: If there are no further questions, the witness may be excused.

(The witness was excused.)

MR. MINSKOFF: I take it there are no further witnesses this morning, are there?

THE COMMISSIONER: I was thinking there were. I'm not sure; I thought there was one more witness.

MR. MINSKOFF: There was another witness scheduled, also an Ambros affiant, but when he was here the last time he asked permission whether he could go back home and that permission was granted and apparently they weren't sure that he was coming -- that he would be ready to have him again

today because of the so-called projected Swiss trip — the Swiss hearing — and therefore he want back home. He could be here Wednesday though.

THE COMMISSIONER: There is another one on the list here. It is V-l-i-t-a-k-a.

MR. MINSKOFF: That's the one I'm referring to. Is it a Mr. Silcher you are reading there Mr. Commissioner — Silcher?

THE COMMISSIONER: Yes, but he is marked off.

MR. MINSKOFF: He is marked off, but the one you are referring to is the other one.

THE COMMISSIONER: V-l-i-t-a-k-a.

MR. MINSKOFF: He is the one who was told to go home and that we might want to come back Wednesday. No, he is the other one. He is the one you told to go home.

THE COMMISSIONER: We will recess till 1:30 then.

(A recess was taken until 1300 hours.)

Under directives of United States Military Tribunal No. 6, testimony of witnesses listed below was required to be taken before the undersigned Commissioner. Pursuant thereto the said Commissioner has conducted hearings at which the following witnesses have fully testified:

<u>Date</u>	<u>Name of Witness</u>	<u>Official Transcript</u>
8 April 1948	Walter Warlimont	10875-10907
9 April 1948	Kurt Krueger	11128-11163
12 April 1948	Karl Weber	11165-11175
12 April 1948	Paula Ester	11177-11199
13 April 1948	Ernst Struss	11293-11338
14 April 1948 &	Christian Zahn	11444-11490
15 April 1948	" "	11587-11612
16 April 1948	Bernhard Schoenar	11706-11723
19 April 1948	Adalbert Feindal	11827-11841
20 April 1948	Josef Grobel	11842-11860
20 April 1948	Gustav Pistor	11861-11878
21 April 1948	Emil de Haas	12098-12128
21 April 1948	Heinrich Schuh	12129-12140
23 April 1948 &	Heinrich Schindler	12337-12370
28 April 1948	" "	12707-12777
26 April 1948	Walter Kikuth	12461-12498
26 April 1948	Hans Seuer	12500-12512
27 April 1948	Wilhelm Duellberg	12598-12621
29 April 1948	Theo Goldschmidt	12871-12909
29 April 1948 &	Anton Reithinger	12910-12953
30 April 1948	" "	13075-13092
29 April 1948 &	Rudolf von Sprotty	12954-12960
30 April 1948	" "	13065-13075
30 April 1948,	Rudolf Schmidt	13093-13133
5 May 1948 &	" "	13620-13629
6 May 1948	" "	13651-13719
3 May 1948	Wolfgang Alt	13246-13269
3 May 1948	Carl Gadow	13271-13291
3 May 1948 &	Kurt Hartmann	13292-13316
4 May 1948	" "	13412-13450
4 May 1948	Fritz Dion	13450-13460
4 May 1948	Kurt Eisefeld	13461-13479
4 May 1948	Adolf Taub	13480-13489
5 May 1948	Ernst Struss (for Pros.)	13566-13619
6 May 1948 &	Werner Schnitz	13720-13735
7 May 1948	" "	13861-13891
10 May 1948	Max Winkler	14173-14181
10 May 1948	Fritz Hirsch	14195-14209
10 May 1948	Ernst Kruschewski	14210-14220
10 May 1948 &	Franz Puerstenberg	14221-14245
11 May 1948	" "	14377-14384
11 May 1948	Heinz Sawoleberg	14387-14424
11 May 1948	Karl Aunscheidt	14425-14439
11 May 1948	Heinhold	14440-14455
10 May 1948	Friedrich Selcher	14482-14494

During the said proceedings the following exhibits have been offered in evidence:

PROSECUTION EXHIBITS

<u>Exhibit</u>	<u>NI No.</u>	<u>Official Transcript</u>
2302	PS 2353 C	10899
2303	L79	10904
2304	11036	11145
2305	11034	11182
2306	15070	11183
2307	11236	11302
2309	11232	11312
2311	15062	11327
2312	15063	11330
2314	11257	11468
2315	13524	11473
2316	11256	11473
2317	11251	11485
2318	11252	11476
2319	11014	11482
2320	11039	11834
2321	13084	11848
2328	10532	12615
2329	10528	12616
2323	10907	12706
2330	13525	12733
2331	15021	12878
2332	3763	12915
2333	15145	12921
2334	15116	12923
2335	8617	12927
2336	15132	12933
2337	1514	12942
2338	11098	13106
2339	13534	13111
2340	15215	13126
2341	15260	13620
2342	15173	13286
2345	7637	13728
2346	7666	13730
2352	15290	14382
2353	15296	14392

I, the undersigned Commissioner, do hereby certify that the aforesaid official transcript pages comprise a full, true and correct report of such proceedings, testimony and evidence heard and recorded therein before me.

Dated at Nurnberg, Germany, May 28, 1948.


 JOHNSON T. CRAWFORD
 Commissioner of Tribunal No. 6

AFTERNOON SESSION

(The hearing reconvened at 1330 hours.)

THE MARSHAL: The Commission is again in session

DR. BACHEM (Counsel for the defendant Ilgner): I call the witness Carl Gottfried Gadow as the next witness.

CARL GOTTFRIED GADOW, a witness, took the stand and testified as follows:

DR. BACHEM: The witness is at the disposal of the Commissioner to have his oath taken.

THE COMMISSIONER: You will raise your right hand and repeat after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will omit and add nothing.

(The witness repeated the oath)

You may be seated.

You may proceed.

DIRECT EXAMINATION

BY DR. BACHEM:

Q Mr. Gadow, would you please state your full name and your address for the record?

A Carl Gottfried Gadow, Wiesbaden.

Q And what street?

A Kapellenstrasse, 67.

Q When were you born, Mr. Gadow?

A On 12 September 1888.

DR. BACHEM: The Witness Gadow has deposed for defense two affidavits for the defendant Ilgner, which are contained in Document Book Ilgner No. 64. They are document No. 60, Ilgner Exhibit 63, and document No. 75, Ilgner Exhibit 81.

Q Mr. Gadow, do you have those two affidavits before you?

A Yes.

Q Do you wish to add or change anything in those affid.

A No.

DR. BACHEM: I have no further questions.

BY MRS. KAUFMAN:

Q Mr. Gadow, will you briefly state your position with I.G. Farben, that is, the position you had from the time of your employment with I.G. Farben until the collapse of the German Government in 1945?

A In the year 1904--

Q Mr. Gadow, let's start with 1926. I think that would be good enough.

A In 1926, a resolution of I.G. Farben, the then representation in China of Kalle and Co. Ltd., in Shanghai, was included in the general representation in China of the Deutsche Farben-Handelsgesellschaft, called "Defag". I joined as one of the managers, and remained in that position in that firm. In 1939, when the then Senior partner and Director Weber was retired, I became his successor, until 1945. At the end of 1945 I was repatriated.

Q I missed part of the translation, Mr. Gadow, so you will forgive me if I repeat myself.

A Please.

Q You were a Vertrauensmann for all of I.G. prior to 1937, all of I.G. in China?

A Apart from my task as manager of Defag, as part of being one of the Zefi Vertrauens people, when this was changed and we became Zefi Verbindungsmänner, at first I became a deputy Zefi Verbindungsmann, and later I was appointed a proper Zefi Verbindungsmann.

Q You became a deputy Verbindungsmann in 1937, is that correct?

A I was deputy Verbindungsmann as long as Director Weber was still the actual Verbindungsmann, but at that time he was on leave in Germany most of the time.

Q Where was the head office of Defag located? Could have the street and city, please?

A In Shanghai.

Q And the address?

A No. 2616 Setchurin Road.

Q Where in China did Defag have other branch offices?

A May I just list the most important ones? Or else it would take two hours.

Q Please do.

A Starting in the South, Hong Kong, Canton, Foochow, Amoy, Kunming, Shanghai, the Central Office, and from there up to the Yangtze River, Wuhu, Wusien, Nanking, Hangkow, Chun Kiang, Chenzu, Peking, and Tsingho.

I think those are the most important ones.

Q Now, in Shanghai, the branch office of Shanghai, which was located in Setchurin Road, was that the only --

A Setchurin Road, yes.

Q Setchurin Road. Did any other offices besides Defag occupy that building?

A Yes, we had the German Nitrogen Association and the Agfa-China Company in the same building. Apart from that, we had the sales combine as an sub-organization of the Defag for the sale of chemicals. To be quite brief, and so that you will better understand me, as part of the Defag all sales Sparten were combined except the Varta. Do you understand that?

Q Yes, I understand that. Just one further question: was that along those lines? Was that all the Farben enterprises that occupied that building, or were there other non-Farben enterprises?

A There was a bank downstairs. We had rented it from a bank. The whole building was rented from the South Sea Bank.

Q Now you state in your affidavit, Ilgner's Exhibit 81, Document 75, Book IV, Page 109, that the annual sales volume in China of dye stuffs fluctuated between 25 and 40 million Reichsmarks. Now that is an enormous fluctuation. Can you break down this fluctuation roughly in terms of years?

A It was such a long time ago, but I can tell you when we had the biggest sale, that was in 1928. We had about 40 million then.

Q And the 25 million covered what period?

A If you want to go to the lowest stand, then I must say that after 1940 we had very much less. Sales in 1944, for example, might have been about eight to ten. I have no documents about that. At the time we did not get any imports and we only could draw from the stocks we had.

Q What was the sale in 1943?

A I cannot say for certain, but I would say perhaps 12, 13, 14 millions -- but I am not certain.

Q And would you recall 1942? These are rough figures; we all understand that.

A Say, we had another two million -- perhaps another two million.

Q So that you get between 15 to 16 million. Is that what you'd want for 1942?

A Perhaps this is even too much.

Q Well, what would you set the figure at?

A I am afraid I can't say. I am just guessing.

Q Well, are these approximate figures?

A Yes, they are all approximates.

Q How large a stock on hand did you maintain in China during the course of a year? Suppose you give me your stocks on hand for the year, say, 1937.

A In 1937, between 20 and 25 millions.

Q Is that average stock on hand that you maintained?

A Yes. But I wish to say that we did not evaluate our stocks according to the value but only according to the quantity, because we had a store to which we sent goods and we had to make up our stores according to types, so that we estimated our stores according to the kilograms, and the actual value did not matter much to us. Those statistics were made in Frankfurt. We, as salcemen, hardly care about it. In the fixing of prices, it also varied. Therefore, the figures which I named are rather approximate.

Q I just want to understand that correctly. Those figures of 20 to 25 million was for what year?

A You asked me about 1937.

Q When was the last time you were able to receive sufficient quantities of stocks from Germany?

A When the road via Siberia was opened we tried everything possible to get as much stocks as possible to China. We only succeeded in part because Frankfurt was not prepared to let us have the amounts we wanted. Whether this was done for reasons of production or not, we could not judge out there; at any rate, a great amount of stocks we received at the end of the Polish campaign when the bridges were again repaired, until the 21 of January 1941, when the war with Russia started. Until that time we got a great amount

of goods via Siberia. Later on, attempts were made to get stocks through with blockade runners, but that was so little that it was hardly worth mentioning for our stocks.

Q So that since after the outbreak of hostilities against Russia took place, the amount of stocks you got from Germany was negligible, is that correct?

A Yes, they were unimportant.

Q Now when did Defag receive orders from the Reichsbank to exchange proceeds from its sales into foreign currency and establish I.G. accounts in the United States, Switzerland or Sweden?

A It was like this: these instructions were translated concrete action only after 1932 when the foreign currency laws were introduced in Germany. All profits in China, as the Reichsbank said at the time, were kept in a state of status nascenti. They were held by the Reichsbank; that is, they belonged to them in their original currency. In Shanghai, we had yuans; military yuan -- Tientsin yuan and Peking yuan and Kuomintang yuan. Those were the various currencies. The various local China currencies all had various values compared to the United States dollar, which was our standard. Therefore, the Reichsbank reserved the right, because they thought they could judge it, as to how we should manage. But it was really left up to us and we took most of the amounts to Shanghai and changed them into the three currencies that I named.

Q Until how long did you keep up this procedure?

A We did so until 1944. The main evaluation of profits was made by changing into those three currencies I mentioned and to a large extent through link business with German firms, that is, a German firm, who say through neutrals bought so:

goods in the United States, had to buy U.S. dollars, and we gave them our local currency in Shanghai and they gave us marks in Germany for it. Those are the so-called "link transactions." That was until the end of 1944.

Q You say through that you deposited these to accounts in the United States, Sweden and Switzerland. What did you mean by that?

A "With the banks: the Basle Bank Association, etc. They were transferred by our bank connections in Shanghai to the banks concerned who again transferred them to the accounts of the I.G. Farben. Those were constant phrases which were entered in the accounts: "Please pay to the account of I.G. Farben, for account of Defos" so and so much.

Q So that as late as 1944 you were having accounts deposited to Farben's account in the United States.

A No. The banks had accounts. It was transferred via them. How the bank worked that out again in Shanghai, we did not care about. We gave an order to the bank in Shanghai and through their connections, either in New York or in London and mostly in Switzerland, it was deposited in Swiss accounts or in kroners in Sweden.

Q Just to make things a little clearer for me, would you go through a single transaction from the time you got your proceeds until it was deposited and finally consumed? Would you please describe that to me step by step?

A In Shanghai, we gave an order to the bank for some bank to transfer to the account of the Basler Bankverein, I.G. Farben, such and such an amount.

Q This bank was where?

A Mostly in Zurich or in Basle.

Q How did you work it with respect to a United States transaction?

A They had to secure United States dollars for themselves somehow. The bank had to secure United States dollars, you see?

Q That is not exactly what your affidavit states. Your affidavit states that you purchased United States dollars and deposited them to your account in the United States.

A Well, anyone who has to do with such things knows how it's done. I don't know just where that passage is.

Q You have your affidavit, Document No. 75 before you?

A Yes.

Q Now you will turn to the last page of that affidavit, the one which contains your signature. Now about the middle of the last paragraph on that page you will see: "The Defag had orders from the Reichsbank to exchange the proceeds from sales into foreign currency and establish I.G. accounts in the United States, Switzerland or Sweden."

A Where is that? That is right. It is not correct to say up to 1944 to the accounts of I.G. Farben in the United States of America. That only applied until the outbreak of the war in 1941, because after the war we could not supply the accounts in the United States after 8 December 1941. That was impossible.

Q Is the language in this affidavit your own?

A Yes, of course. I was trying to say to the account of I.G. Farben in United States dollars, Swiss francs, or Swedish kroners. That was what was meant.

Q What did you do until 1941?

A Until 1941 we used the National City Bank a great deal, and transferred the amounts via the National City Bank in Shanghai to the States, and from there it was again disposed of by I.G. Farben.

Q Now tell me, how did you acquire United States dollars after 1941?

A In the market; in Shanghai there was a free market on foreign currency.

Q How much of your proceeds did you convert into United States dollars after 1941?

A That depended on what was offered. The greatest was the United States dollar which was always offered for most, and sometimes it was cheaper, and sometimes it was more advantageous, depending on what was offered. If one had the choice, that which seemed most suitable we bought. We were in business, after all.

Q Can you tell me just how much United States dollars you bought in 1941?

A No.

Q Or any period after the outbreak of hostilities with the United States?

A No.

Q Can you give me a very rough estimate about how much United States dollars you bought?

A No.

Q Now is it your testimony that before 1944 no proceeds from Farben, — or let's put it as Defag — were deposited to the Reichsbank accounts in the German Asiatic Bank?

A That is possible. It is possible that Zefi, — that is an agency of I.G. Farben in Berlin which handles all the monies of I.G. Farben — it is possible that a certain amount had been transferred to the German Asiatic Bank in Berlin. But as part of the general evaluation of the proceeds, this did not play a part, so I did not even mention it here.

Q Are you sure that it was in 1944 when your practice changed?

A How did you mean that?

Q Well, until 1944 you converted your proceeds into foreign exchange and then you set the date after 1944. Now are you sure that it's 1944 when you changed that practice?

A I already said it is quite possible that already before that we paid certain amounts to Reichsbank accounts, but this was not so decisive because those amounts which were then paid were relatively small, and since they were paid in local currency, I never got them because no financial transactions — that is no purchase of foreign currency — was connected with this. This was merely a result of an order by telegram from I.G. Farben. It was transferred to the account. It is possible that this happened before.

Q Can you fix the date when your general practice changed?

A No.

Q Why do you select 1944?

A Because I know that towards the end of 1944 the readiness of the owners of gold currency which people in Switzerland and Sweden had wanted to get rid of this, and were prepared to take the local currency for this, because apart from that the possibility of shipping was much less possible, and we had great difficulties in selling and also in utilizing our proceeds. I know that that was at the end of 1944.

Q Mr. Gadow, is it your testimony that Defag or any other I.G. Farben agency in China did not provide the German agencies in China with foreign exchange necessary to carry on their activities?

A The part of Defag for which I can testify at no time transferred money to the authorities. We only knew the German Asiatic Bank in our relations to the Reichsbank.

Q Would you say that was true at no time?

A As far as I remember, no.

Q Now, isn't it true that you personally, with the approval of Farben's Frankfurt Office, carried on negotiations with government agencies in China and arranged to provide them with funds needed to carry on their activities in China?

A Not on order from Frankfurt, but on order from Berlin, negotiations were conducted for monies which the Reichsbank put at the disposal for measures which were intended for the German Embassy in order to supply the refugees from the Dutch Indies, from the community at the time, for we expected air attacks and they wanted to establish kitchens, etc. The Government approached I.G. Farben with the request to see to it that our sales were speeded up — that is, that they were increased, so that sufficient monies would be on hand for this. These funds which we received from these transactions were paid exclusively to Reichsbank accounts in Shanghai. The distribution and use of these funds we did not know about.

Q When did this negotiation take place?

A That was all at the end of 1944, the beginning of 1945, when the first air raids started on Shanghai, and the monies were used for the refugees — we had at least 2,000 refugees from the Dutch Indies — German women and children who had to be supported there.

Q Now isn't it true that in the course of these negotiations, you arranged to provide funds from your Shanghai office to the German agencies in Shanghai, Nanking, Canton, and through your branch office i

Tientsin -- I am sure I am not pronouncing it right. You provided funds for the German agencies in Peking, Tientsin and Tsingtau, isn't that true?

A Our branches at the place you named were transferred. The amounts which had been fixed for the German Embassy, I assume in agreement with the Reichsbank in Berlin, had to be paid through our branches to the account of the German Asiatic Bank at the locations you mentioned. That is quite right in Canton, in Nanking -- no, not in Nanking, that didn't exist -- in Shanghai, in Tientsin, in Peking and in Tsingtau.

Q Now isn't it true that you personally made similar arrangements after the collapse of Germany to continue such payments to the government agencies functioning in China as well?

A The amounts which were paid out were fixed, and of course they were carried out in the same way as had been approved by the Reichsbank. The control about these matters in detail, in September, October and November 1945, was carried out by a representative of the State Department, a Mr. Bohn in Shanghai. We had long negotiations about this, and Mr. Bohn assured me that the matter was perfectly all right.

Q The question I put to you was whether or not you had made such negotiations after the collapse of Germany. Your answer I take it is that you had, is that correct?

A They existed. There were there already. They only had to be carried out.

Q Weren't these agreements for three month periods, and didn't you subsequently renew these agreements after the cessation of hostilities?

A No, only on those amounts that had been fixed right at the start.

Q You did continue payments after the cessation of hostilities?

A Yes.

Q Now, isn't it true that I.G. Farben's connections in China were considered of outstanding importance by German authorities?

A I.G. Farben, owing to their system of many branches, were so

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important, the same as the Standard Oil Company is important for the Americans; and for the British, the British American Tobacco Co. Then of course the German authorities considered Defag the largest firm, and had connections with them accordingly.

Q. Isn't it true that officials of the Nazi Government and representatives of the foreign organization of the Nazi Party travelling to China were given assistance of Farben agencies in China in carrying out their tasks?

A. I do not know of a single case like that. I assume that you are thinking of the A.O., the foreign organization there, that they received support from us, the Defag.

Q. My question to you was, were visiting representatives of the Nazi government and of the foreign organization of the Nazi party coming to China given introductions to important people and assisted in other ways to carry out their tasks?

A. I cannot remember that any such case ever occurred.

Q. Weren't you ever asked to support the Nazi Party's activities in China?

A. We had never been asked to do that and our entire attitude as businessmen in China was to resist, as much as possible, without stopping our general operation and to bring in Nazi activists in our place due to our own stupidity.

Q. Now, as a matter of fact, isn't it true that on Ilgner's trip to the far East in the latter part of 1934 or the beginning of 1935 he requested you to cooperate with the local representatives of the foreign organization of the NSDAP?

A. I believe Dr. Ilgner told the Ortsgruppenleiter or the Landesgruppenleiter at the request of the then manager Geschäftsfuehrer, the Ambassador had been dismissed, whereupon Ilgner made a visit. I believe it was Fischer. A regulation had been issued that the Party members were immediately under them, and during every reception, the Consul General had to be invited, or the Ambassador, and the Party member was also invited. In order to continue in this custom, Ilgner invited this man, the managing man of Defag.

Q. The managing man of Defag? What managing man are you talking about?

A. The first man of the Party. May I add something to this?

Q. Please do.

A. Dr. Ilgner, at the time, made contact with a gentleman who was the first financial man, Sir Victor Sassoon, who was an important man in China, perhaps you remember him from India. He made great difficulties for us. He was a Jew. Ilgner went to him at that time and, as I remember, I believe it was on the first Christmas day that Ilgner went to visit him and had lunch with him there, and caused great anxiety to the Party about that.

Q. Now, is it your testimony that, as a representative of Farben and Defag, you never engaged in any activities supporting the Nazi Party activities in Germany, or in China, or in any propaganda activities in China?

A. Not in any way. I only became a member because otherwise I would not have been able to remain in charge.

Q. When did you become a member?

A. 1936.

Q. Did you know Josco von Puttkamer?

A. Yes.

Q. You know that he was the head of the information bureau in China, the official propaganda agency in China, is that right?

A. Yes.

Q. Did you support his activities in any way?

A. No, no.

Q. Didn't you put Farben address files at the disposal of von Puttkamer's information bureau for the purpose of distributing propaganda throughout China?

A. Puttkamer tried this. When Puttkamer was young he was the Secretary of the deceased Geheimrat Duisberg, and he knew that we had made a great deal of propaganda for Indanthren in China, and a great number of addresses had been collected. He therefore asked me for them, but I never gave them to him. I refused this right up to the end.

Q. Farbon's employees and representatives in all parts of China were experts in their knowledge of China, isn't that so?

A. I believe one could say that.

Q. Now, isn't it true that they prepared confidential reports which were submitted to the German Embassies and Consulates?

A. Information which was of any interest was exchanged, of course, in the same way as the consulates gave information to us. But this was not at all of a confidential nature, as far as I remember.

Q. Didn't they also submit their reports to the German Intelligence Service.

A. No. What the Embassies wanted with it, I don't know.

Q. Now, in connection with these last series of questions that I put to you, I show you a document marked HI-15173, which will become Prosecution exhibit 2342, and I direct your attention to the last page of this document. This is a sworn interrogation of Jesco von Puttkamer concerning the subject matter discussed within the last few minutes.

Now Mr. Puttkamer states, and I read from the next to the last question and answer.

"Q. Did your information bureau ever make use of I.G. Farbon facilities in China?

"A. Yes, we did. The IG firms put at our disposal their address files for the purpose of distributing propaganda throughout China. The IG also complied with many other requests of lesser importance which also aided in our work."

Does that refresh your recollection that you did put your address filed at the disposal of the information bureau?

A. Where does it say so?

Q. It is the last. . .

A. Yes, yes yes.

No, the first point is incorrect as well. It says here, "an arrangement was worked out whereby the German government would request a certain amount of money for use of governmental agencies in China from

the Reichsbank. The Reichsbank would then place this amount on the account of the I. G. Farben in China."

That's wrong.

Q. Alright, let's go on to the next question.

DR. BACHEL: Mr. Commissioner, I would like to object to the submission of this affidavit of Herr von Puttkammer. According to a ruling of the High Tribunal, the witness in the witness stand can only be shown his own affidavit, but not the affidavit, of any other witnesses. That is why I object.

MISS KAUFMAN: The Witness has testified concerning a transaction involving the affiant now being introduced in evidence, and under these circumstances, it would appear that this affidavit is entirely proper.

THE COMMISSIONER: Well, the record will show your objection and reasons, and explanations.

BY MISS KAUFMAN:

Q. Did you know a man by the name of Ehrhardt?

A. Yes.

Q. Who was Ehrhardt?

A. Ehrhardt was the Military Attache of the Embassy in Nanking, but I am not certain, but as it was said, because of objections of the Japanese, he was not kept officially as the Military Attache. However, he was in charge of counter-intelligence.

Q. He was engaged in military espionage?

A. As far as I know, he was a colonel in the general staff.

Q. Now, isn't it true that he used the cover of I. G. Farben in carrying out his activities?

A. No, not in any way.

Q. You know he occupied an office in the Defag building in Shanghai, is that right?

A. That is also incorrect. When the Nitrogen Association did not have any more goods, we rented out part of the storerooms for the Consulate

General at the request of the Consul general Fischer, and on that floor, offices were set up which were separated from our offices, but I certainly do not know what went on behind those doors.

Q. You did know the nature of Erhardt's activities though, did you not?

A. Yes. It was exactly what the Americans and the English did, it was exactly the same.

Q. Now, in your affidavit, Ilgner's exhibit 81, document 75, you state that two officials of the United States State Department requested and obtained lists of the German employees of the IG agencies in China in which Party membership and possible party functions were indicated, and that there was no evidence in any case of membership in the Gestapo. Now, what do you mean when you say that there was no evidence of membership in the Gestapo? Did you have access to the evidence?

A. I said here, "In no case was it correct that the members mentioned in the present document belonged to the Gestapo." I am trying to say, if one of the Defag employees had been a Gestapo member, then one would have known of it. Apart from that, the word Gestapo only became known to me during the last months of the war. We had been cut off from the homeland, and the meaning of the word "Gestapo" became known to us only during the very last months of the war.

Q. Now, you don't mean to create the impression in your affidavit that the Party members of Farben were investigated and subsequently exonerated of any charges as members of the Gestapo, do you?

A. Would you repeat that please? I didn't quite get you.

Q. Now, your affidavit states, the same gentlemen, referring to the U.S. Gentlemen, requested and obtained lists of the German employees of the I. G. agencies, in which the Party membership as well as possible Party functions were indicated.

A. That's right.

Q. There was no evidence. . .

A. No, it does not say so. It says "in no case." In German it is "In keinem Falle". The translation of that is "in no case".

Q. In no case what?

A. In no case were the members found to belong to the Gestapo, as in the previous document.

Q. Where did you get your information as to whether these people belonged to the Gestapo?

A. I have already said I would have learned about this. The people worked in the office from morning until night, and I saw them all day long, so that if they did belong to the Gestapo, according to what is known today about the Gestapo, I would have noticed whether they were engaged in any activities.

Q. And when you talk about "no evidence" in your affidavit, you are not referring to evidence of the United States Agencies, are you?

A. No, it is not to be understood that way. "In no case" really means here: "It does not apply to any of them." That is how it should be in the document.

MISS KAUFMAN: I have no further questions.

REDIRECT EXAMINATION

BY DR. BACHEN: Bachen for Dr. Ilgner:

Q. Mr. Gadow, you were talking about the payments to the German Asiatic Bank in China for the refugees from the Netherland Indies and so forth. The Dutch Indies. May I ask, are those pure charity payments?

A. Yes, for the support of women and children, for housing, clothing, etc. Since 1941 these people had been left behind in China and Japan and they depended on support which the Reich had always paid.

Q. And you said that it had been established beforehand to what extent these charitable funds were to be paid out?

A. The Prosecutor reminded me of this. I had forgotten about this, that these arrangements were actually made every three months because our sales program had to be made according to this. The government had fixed certain amounts which enabled us to sell certain amounts.

Q. And according to this agreement you made payments?

A. To the German Asiatic Bank, yes.

Q. In connection with the question about the A.O., the foreign organization, did I understand you correctly, Mr. Gadow, that the German official agencies had ordered that the first official of the A.O., the foreign organization, in each country, was to be considered in rank immediately after the German Ambassador or any other high official in that country?

A. Yes, I heard that for the first time when Dr. Ilgner paid a visit. I didn't know about that before.

Q. You were talking about Mr. Sassoon?

A. Sir Victor Sassoon.

Q. What was his nationality?

A. He is an Englishman.

Q. And for which firm was he active in China and why was he in China?

A. Sassoon means a world concept. He had hundreds of firms in India and in China. He was a multi-millionaire, one of the richest English businessmen.

Q. You were asked about the date of your entry into the Party. Why did you join the Party?

A. Originally, I was politically unreliable, and as such, the Party thought I was undesirable. When the question of the succession to Dr. Weber arose, the then chief of China branch, Kommerzionrat Waibel, told me I had to become a Party member, and it took a long time. It took about 18 months until he finally succeeded in getting me into the Party. After I was accepted into the Party, I could be appointed. The reason for this was supposed to have been that the Party, in the future, wanted the most important people in the large branches to be Party members. But I did not know that myself. I only heard that from Herr Waibel.

Q. Do I understand you correctly that it wasn't Mr. Waibel's request,

but a request of the foreign organization?

A. I think it was Bohle's request. He told me so. I don't know myself.

Q. The information which was given to the Consulate was discussed. You said that you gave information to the Consulates, the same way as the Consulates gave you information. What kind of information was this? Not in detail, but generally.

A. "The shipping up the Yangtze river should be stopped because we had heard that some general was going to start a battle there." That was a very important piece of information for us, because we would not send any shipments out and up the Yangtze river if some crazy general would start a battle there. This information was handled from Consulate to Consulate, and I heard that from Fischer. Then, the chiefs of our plants reported some matters which were important for them. But they were purely business matters.

DR. BACHEN: Thank you, I have no further questions.

THE COMMISSIONER: No further questions from Defense Counsel?

DR. BACHEN: No further questions.

THE COMMISSIONER: Do we have another witness this afternoon?

DR. BACHEN: Mr. Commissioner, I beg your pardon, may I ask that my client, Dr. Elger, be taken back to the main trial because he is supposed to be brought there?

THE COMMISSIONER: You may take him back.

Witness, you may be excused.

I think we ought to take a recess now then, before we start the other witness, and we will be in recess for fifteen or twenty minutes.

(A short recess was taken.)

THE MARSHAL: The Commission is again in session.

DR. FLAACHNER: Flaechner for Buete-fisch,

Mr. Commissioner, with your permission, I shall call the witness
Dr. Hartmann to the witness stand.

THE COMMISSIONER: The witness will take the stand.

DR. KURT HARTMANN, a witness took the stand and testified as
follows:

THE COMMISSIONER: The witness will raise his right hand repeat
after me:

I swear by God, the Almighty and Omnipotent, that I will speak
the pure truth and will omit and add nothing.

(The witness repeated the oath.)

THE COMMISSIONER: You may be seated.

DIRECT EXAMINATION

DR. KURT HARTMANN

BY DR. FLAACHNER: (Vor Buete-fisch.)

Q. Witness, for the record, please give your full name.

A. Dr. Kurt Hartmann.

Q. And your residence.

A. Ilvesheim near Mannheim.

Q. And your profession.

A. I'm an engineer.

Q. Dr. Hartmann, you are the assistant defense counsel for the
defendant Dr. Oster, is that right?

A. Yes.

Q. You made out the following affidavits which are contained in
the Document Books of my client, Numbers I and IV. First of all, there
is affidavit -- there is the affidavit of the 15th of October 1947,
Buete-fisch 229. Then there is one of the 12th of February 1948,
Buete-fisch 230. Then there is one of the 7th of October 1947, Buete-fisch
328. Then there is one of the 10th of October 1947, Buete-fisch 161.

and one of the same date, Buetevisch 160. Furthermore, there is your affidavit of the 8th of October 1947, which is Buetevisch 162; and there is one of the 30th of September 1947, Buetevisch 162. And finally the affidavit of 12 January 1948, Buetevisch 169, and of 6 February 1948, Buetevisch 163. I think these are all from Volume I of the Document Book.

Now you furthermore made out an affidavit on 25 October 1947, which is Buetevisch 218. I think that covers it.

Dr. Hartmann, a general question. When did you join the Party?

A. In 1931.

Q. Do you have anything to say about the above-mentioned affidavits. Do you have to correct them, add to them, explain them, or anything else?

A. No.

DR. FLAEBERGER: The witness is at the Prosecution's disposal for cross examination.

CROSS EXAMINATION

DR. KURT HARTMANN

BY MR. AMMAN:

Q. Mr. Witness, you say you are assistant defense counsel for the defendant Oster, is that correct?

A. Yes. I'm admitted as such.

Q. And have you been his assistant defense counsel since the beginning of this trial?

A. No. I was admitted towards the end of October 1947.

Q. Have you been working with the defense counsel for the defendant Buetevisch in this case?

A. Yes, that, too.

Q. Would it be a fair statement to say that the subject matter covering the defense in connection with the case of Oster and the subject matter covering the defense of the defendant Buetevisch cover substantially the same field?

A. Not quite, but partly that's correct.

Q. Now, when did you join Farben?

A. I joined Farben on 1 December 1925.

Q. And where did you work, in Farben?
And where did you work, in Farben?

A. First I worked as engineer —

Q. What kind of an engineer?

A. According to my training I am a machine engineer and during my work for Farben I mainly worked in those fields or trained in those fields which are called chemical engineering.

Q. Will you, beginning with the time you joined Farben, tell me which plant you worked for and particularize the nature of the work you did?

A. I joined in Ludwigshafen and all through the years I belonged to Ludwigshafen.

Q. When you say "all through the years," try to fix a date, will you please?

A. As I already said, I joined Farben on 1 December 1925 and at first I worked as an engineer in the construction office. Then I went to a plant as a plant engineer in the Opan Plant, which belongs to Ludwigshafen.

Q. It will help us considerably if, in going over the various duties you had, you fixed the time when each occurred. Could you do that, please?

A. I can do it pretty exactly. In the summer of 1926 I started work as an engineer in the Opan Plant — that is, in a nitrogen processing plant — and on 1 December 1926 I joined the hydrogenation experimental station, the so-called high pressure experiments again as a plant engineer.

Q. Where was that?

A. In Ludwigshafen. Then in the summer of 1927 for about six months I was there to start the large scale hydrogenation plant at Leuna. Then I returned to Ludwigshafen again to the high pressure experiments.

Q. When?

A. Towards the end of 1927, I already said that I stayed in Leuna for about six months. From 1931 --

Q. You skipped from 1928. You say at the end of 1928 you went back to Ludwigshafen, is that right?

A. I said I returned to the high pressure experiments in Ludwigshafen.

Q. How long did you stay there?

A. I just wanted to describe that. Until, I believe, the beginning of 1931. Then I was a piece-work engineer in the Oppau Plant.

Q. What do you mean a "piece-work engineer"?

A. The artisans of the Farben Plant did piece work. That is, they got paid for whatever work they did. Shall I describe that in greater detail?

Q. No, it is your work that I'm interested in and not what the other people did. Describe your work.

A. All right, but it is necessary to do that.

Q. Well, briefly, so I could understand. Piece-work doesn't mean anything to me. Just in a general way, so I can understand what your experience was there.

A. It is the determining of the time required for a certain piece of work -- for instance, for a locksmith's work -- in what period of time a normal worker can perform this job, and if he is given the order this normal period of time is put on his time sheet.

Q. What -- Now, in 1931, I understand, you were back at the Oppau Plant, is that right?

A. Yes, until end of 1932. Pardon me. That's wrong. Until the end of 1931.

Q. Well, tell me, what was the nature of your work, generally?

A. I tried to explain that I was a piece-work engineer. That is to say, that I determined the piece-work for the piece-workers there.

Q. O.K. Go ahead. After 1931?

A. This was the time when there were a lot of dismissals in the plant. At the time I was dismissed with many others.

Q. That's the end of 1931?

A. Yes.

Q. You were dismissed from the Leuna Plant?

A. Not from the Leuna but from Oppau Plant.

Q. From Oppau. I'm sorry. From the Oppau Plant.

A. That's right.

Q. Continue.

A. And I started to work as a university assistant and as such I went to the Economic Institute in Mannheim, where I became an assistant instructor for economics. And I got my Doctor's Degree in this subject.

Q. During what period of time were you assistant professor at this university?

A. Not professor. I was an assistant -- the assistant of a professor.

Q. What period of time did that cover?

A. From the beginning of 1931 until end of July 1933.

Q. I'm sorry. You said from the beginning of 1931. I understood a moment ago -- I understood a moment ago that until the end of 1931 you were at Oppau. Now, did you make a mistake?

A. I beg your pardon, I made a mistake. From the beginning of 1932.

Q. So, from the beginning of 1932 until the end of 1933 you were in the university?

A. That's right.

Q. And at that time you were a member of the Nazi Party already, right?

A. That's correct.

Q. Go ahead. We'll pick you up on 1933 now.

A. On 1 August 1933 I was recalled by Farben, and I must add that my connections with Farben were not completely dissolved in the end of 1931 but that I was sent to this university position by Farben at the end of 1931.

Q. What do you mean, you were sent by Farben to the university? Did they pay you a salary while you were at the university?

A. Yes.

Q. What were you studying at the university?

A. Economics.

Q. Farben paid you for studying economics at the university, is that your testimony?

A. Yes.

Q. How much did they pay you?

A. A fraction of my former salary.

Q. How much?

A. About 300 marks a month.

Q. Now, do I understand your testimony to be that from 1932 to 1933, although you were not working at Farben, you nevertheless received a salary of 300 marks a month for that time while you were at the university studying economics; is that your testimony?

A. That's right. This was a regulation which not only affected me but a whole lot of other scholars at the plants.

Q. I'm asking about your — Was that a fair statement of your testimony?

A. Yes, that's correct.

Q. All right, we're up to 1 August 1933, when you say you were recalled by Farben?

A. Yes.

Q. Where did you go?

A. First of all, I went to the Technical Department of the plant at Ludwigshafen. I worked in the storage department until about the end of 1934.

Q. We want to be entirely clear, Mr. Witness, as to the nature of your work between August 1, 1933, and the end of 1934, when you were at Ludwigshafen. Could you tell us in a general way, what was the nature of your work?

A. I said I worked in the Technical Storage Department. That is to say, that was the administration of the machinery, raw materials, and

processing materials and stocks of these for construction and repairs of the technical facilities.

Q. That's a little too general for me to understand. Could you tell me just what you did? Give me the field of activity in which you were engaged and what products did you personally deal with -- the manufacturing, storage, or stock-piling, whatever it was -- just indicate a little more definitely.

A. In the plant we had a large storage of machinery, that is, new and used machinery. The administration of this stock and the utilization of the old material was part of my tasks.

Q. What kind of machinery was this?

A. These are installations for the construction of chemical apparatus. Things where you mixed chemicals, mills, drying apparatus, pipes.

Q. Now, were these all-purpose chemical apparatus and machinery or was it any special machinery or apparatus in the chemical field?

A. Partly these were very special apparatus for very definite processes, partly it was apparatus which can be used in all chemical fields -- pumps, kettles, et cetera.

Q What was your job between August 1, 1934, and the end of 1934 at Ludwigshafen in relation to the machinery and equipment that you mentioned? What did you do?

A This place where the stock was kept had a staff of about fifty — I don't remember the exact number — and I was the head engineer for those people. It was the position of plant engineer.

Q Well, what did you do? Did you look after it to see that this machinery was in good repair? What was your particular job? I don't quite understand.

A Of course, the apparatus which was not in use but which was there in storage had to be maintained, it had to be taken care of and repaired, useless material was destroyed, and the scrap was sold. I had to supervise that.

Q Were you especially assigned to any machinery relating to the manufacture of any particular product, or were you just a general, all-around engineer for the production of all or a substantial part of the products produced at Ludwigshafen. Do you understand my question?

A Yes. But, Mr. Prosecutor, this place where the stock was kept was a general facility of the whole plant. At this particular place, one did not know anything about individual products; we were only interested in whether a piece of machinery was made of lead, of iron, of copper, or of anything else.

Q That occupied all your time from August 1, 1933, until the end of 1934, at Ludwigshafen, right?

A Outside of that, I had a so-called dismantling detachment of about thirty, forty, or fifty people, which took care of various jobs in all plants, such as scrapping stuff, etc. and also with the aim of either using the apparatus for further employment, or else scrapping it.

Q O.K. I have got you up to 1935 now, is that right?

A Yes, until the end of 1934.

Q That is right.

A Yes.

Q What did you do next?

A In the last days of 1934 — I would estimate that it was around Christmas — I went into the so-called Projects Bureau of the Oppau Plant, which concerned itself with the economy and practicability of new processes.

Q How long were you in that job?

A Around one year, until the Projects Office was combined with the Sparte Office, that is, the office of Sparte I. With that I automatically came into the Sparte office.

Q And that was at the end of 1935, right?

A Well, in the spring of 1936.

Q Now, just tell me exactly the nature of your work in this Projects Bureau at Oppau from the beginning of 1935 until the middle of 1936. Just what did you do?

A The job of the Projects Office, or of the special office of this bureau in which I worked, consisted of testing new processes which had been developed in the laboratory, to see whether they were useful and whether they were ripe to be used profitably. That is to say, we had the chemist concerned, who had worked on the process, give us his chemical data and his results. We would then consider how this process might be carried out on a large-scale basis, and we would consider what apparatus would be necessary for that. We then would calculate what the product would cost if it were manufactured in this way, and we would compare that with products of competitors or with the market prices.

Q Now, was this an experimental plant or project that you were working on when you say you were engaged in trying to ascertain the cost of new processes that were being developed? Now, were you engaged in an experimental operation at this time?

A No, the experiments were conducted by the chemists who then

brought us the data.

Q I am afraid you don't understand the question. Do you know what the term "pilot plant" means?

A Yes.

Q Tell me your understanding of the term.

A In my opinion, a pilot plant is an experimental installation which, first of all, tries out a new process on a small scale on an experimental basis in order to get to know all the conditions involved.

Q Now, your work at the Projects Bureau in Oppau -- was that, in a sense, work on pilot plant production?

A Well, one could, perhaps, say we determined the economic conditions of such pilot plants, or we studied the economic conditions of such pilot plants.

Q Well, now, is this a fair statement of the situation? When the laboratory discovered a new process, it was given to you at the Projects Bureau in Oppau to test it out on a pilot plant in order to determine whether it was feasible for large-scale production. Is that a fair statement of the situation?

A Not quite, because it wasn't we who operated the pilot plant, but the inventors or the people who worked on the experiments operated the pilot plant. We merely had them give us their results, and then we calculated how one would construct a large-scale installation and how much it would cost, taking the small-scale plant as a model, and whether it would be profitable.

Q All right. Now, that takes you up to -- you say the middle of 1936, when Sparte I absorbed the Projects Bureau of Oppau. Is that right?

A Yes. In the beginning of 1936, as I have already stated, the two offices were combined and thus I belonged to the Sparte Office.

Q How long did you stay there?

A Until the end of the war.

Q Would this, then, be a fair statement of your testimony, that from the beginning of 1939, when you entered the Projects Bureau at Oppau --

A It was 1936, or 1935, when I entered the Projects Bureau.

Q That is right. Now listen to my question, and you will get it. With the beginning of 1935, when you entered the Projects Bureau at Oppau, you continued to perform the same duties right to the end of 1945, notwithstanding that in 1936 Sparte I absorbed the Projects Bureau of Oppau? Do you understand the question?

A Yes, but that is not correct, because I very soon changed the direction of my activities within the office of Sparte I.

Q You mean beginning with 1936, when Sparte I took over the Projects Bureau of Oppau?

A Yes.

Q And how did your work change at that time?

A In the Sparte office I no longer worked on these engineering calculating questions, but, first of all, I worked on general questions concerning sales of nitrogen and turn-over of nitrogen. The Sparte office concerned itself with these matters as the nucleus of its activities, and it had to maintain contact with Farben, that is, with its Nitrogen Syndicate.

Q Now, if you will wait a moment, I want to see that I got this. You say that after you joined Sparte I, sometime in 1936, the nature and direction of your work changed.

A Yes.

Q The principal change being that you started to work on matters of the Nitrogen Syndicate. Do I correctly understand you so far?

A Yes, but not with nitrogen plants but specifically with nitrogen production and nitrogen sales.

Q Now when did your work begin in the field of nitrogen production and nitrogen sales?

A That was right in the spring of 1936.

Q Now tell me exactly what was the nature of your work in connection with nitrogen production and nitrogen sales?

A On the one hand, the Sparte Bureau had the job of distributing the production of nitrogen among the various Farben plants and to adapt it to the sales which were expected; on the other hand, the Sparte Bureau had the job to account for the sales and the quantity of the sales and to check up on this via the nitrogen syndicate. Thus it was necessary -- May I finish, please?

Q Yes, finish the sentence. Go ahead. There is something I want to ask you on this.

A It was necessary to take the quotas of Farben fixed by the various agreements and to count these in figuring the entire sales of the syndicate, and thereupon to adjust the production of the Farben plants.

Q Is this a fair statement then of your testimony: that Sparte I, in connection with the production of nitrogen, adjusted its production in accordance with the quotas fixed by the nitrogen syndicate? Is that all it comes down to?

A Not quite.

Q Well, let me see then if I get it a little more accurately. You stated that the production of nitrogen from Sparte I was distributed to the plants of I. G. Farben, and you had to look after that; do I correctly understand you so far?

A Yes.

Q Now, this distribution by Sparte I of the nitrogen production to the I. G. plants, did that go directly from Sparte I to the I. G. plants, or did it have to clear through the nitrogen syndicate?

Was it charged to the quota of the nitrogen syndicate?

A I think I must explain it. The nitrogen syndicate had a definite estimate which depended on the market conditions--that is, it depended on the internal German consumption and depended on the exports. The nitrogen syndicate estimated for a certain period of time the sale which could be expected. It informed its members of this estimate and then we calculated how much we would contribute thereto, on the basis of our quota.

Q Distribute to the nitrogen syndicate?

A To what the nitrogen syndicate wanted to sell.

Q Go ahead. Now my question then is: the nitrogen that was produced in Sparte I and that was distributed to the I. G. Farben plants, was that charged to the quota under the nitrogen syndicate or not?

A I cannot answer the question in this form. There seems to be a misunderstanding.

Q Well, first do you understand my question?

A No.

Q I will put it to you again. The nitrogen that was produced by Sparte I, which you say was distributed to the I. G. Farben plants, was the amount of nitrogen so distributed to the Farben plants charged to the quota fixed by the nitrogen syndicate? Do you understand the question now?

A Well, I understand, but the question does not correspond to the facts.

Q I am asking you for an answer. If you understand it, then give me your answer.

A The question is wrong and therefore I cannot answer it.

Q I am not asking you to characterize the question. If you understand the question, answer it; if you don't understand it, I will try again. Just undertake to answer the question I put to you. Now do you understand the question?

A Yes, but it is based on wrong promises, and I can't answer it.

Q Well, I will put it to you again. Don't tell me what it's based on; just try to answer it. I am asking you whether or not the nitrogen production from Sparte I that was distributed by I. G. Farben to its own plants, was that nitrogen charged to the quota of the nitrogen syndicate or was it not charged to that quota? Do you understand it now?

A Farben did not distribute any nitrogen production.

Q Wait. Do you understand the question?

A No, the question is incomprehensible.

Q I will try again. Just relax and I will give you the question. You stated, did you not, that your job in Sparte I dealt with the distribution of nitrogen from Sparte I to the I. G. Farben plants. Did you so testify?

A No, I did not.

Q Then tell me what you testified to.

A We did not distribute nitrogen. Nitrogen was distributed by the syndicate as the sales organization. We in the Sparte office determined what types and what quantities were to be produced by the various Farben plants within the entire production of Farben. The nitrogen syndicate as such did not care from which plant of Farben the nitrogen came. We did that according to technical considerations. I could give you an example, if you wish. The nitrogen syndicate estimated that during a certain period the sale would be 100,000 tons; that is, distributed to lime, nitro-phosphate, etc. and a whole number of other forms of nitrogen. Now we had to calculate that of these, on the basis of the nitrogen syndicate agreement, Farben would produce a certain amount, say, 65,000 tons; whereas the rest would be produced by other German firms. Then we had to figure out and we had to negotiate with the other firms what types we wanted to produce and what types the others would produce, and then we had to consider

within our own agency at what place nitro-phosphate would be produced, at what place of Farben, lime or ammonia nitrate would be produced within our quota,

Q And what you just described, was that the nature of your work in Sparte I?

A That was my primary activity in the Sparte.

Q Now let me see if I understand you correctly. Your work in Sparte I in connection with nitrogen consisted of allocating to the respective I. G. Farben plants a fixed amount of production quotas, and you made that allocation in sufficient quantity to meet the quota which was set by the nitrogen syndicate. Is that a fair statement of the nature of your work?

A Yes, that is correct.

Q Now in connection with your work, did you also keep the nitrogen syndicate informed as to the anticipated demands and needs of the I. G. Farben plant as a consumer?

A No, the Nitrogen Syndicate had nothing to do with that.
You mean what Farben needed for its own consumption?

Q Did Farben need nitrogen for its own consumption in connection with tearing down its own business?

A Not as a merchandise to be sold, but as raw material or an intermediary product for other products.

Q Alright. Now, do I understand this to be the fact that in order for Farben to produce intermediate products, it had to get nitrogen, is that right, so far?

A Not that it should receive it, because it produced it too.

Q It had to use nitrogen to produce the intermediate products, is that right?

A That's right.

Q And the nitrogen that Farben used to produce intermediate products, did you consider them for the purpose of the quotas fixed by the Nitrogen Syndicate? Did you treat Farben as a consumer of nitrogen for that purpose?

A No. The consumption by Farben of nitrogen was not charged to the quotas of the Nitrogen Syndicate.

... FLAUGHSNER: I raise an objection against all these questions because the affidavits for which the witness was made available for cross examination do not at all concern themselves with the nitrogen fields but with completely different subject matters. We do not have to bother with nitrogen at all.

MR. ANCHAN: The purpose of these questions is to find out the experiences of this witness, his activity in Farben, in order to be able to evaluate the substance of the technical data which is contained in his affidavits. The point of inquiry about the Nitrogen Syndicate is only for the purpose of asking the witness about his relationship to his work. He testified that in 1936, when he joined Sparte I, he had some technical position relating to nitrogen, and I want to inquire as to the nature of his work in that field.

MR. FLAEBNER: The last question which the Prosecutor asked referred to whether the home consumption of the Farben plants were charged to the quotas set down by the Nitrogen Syndicate, and whether they were listed in the Nitrogen Syndicate. I would be grateful to the Prosecutor if he would tell me how far the answer to such a question would be valuable in scrutinizing the expert knowledge of this witness. I consider the questions as completely irrelevant. The Prosecutor asked the witness how he got the data which the affiant made. If he puts these questions, then the expert knowledge of the witness will be no more easily determined and connected than if he asks questions about the quotas set down.

MR. ANCHAN: We will just leave Counsel's objection on the record as it is. I will only add that in Bueteifisch Document 229 which contained charts of this witness, he has some detailed diagrams of the main synthesis of Sparte I, and he goes into substantial charts on nitrogen and what happened to it. Certainly for that purpose, it is relevant.

THE COMMISSIONER: Very well, the record is made for both parties. You may proceed.

BY MR. ANCHAN:

Q Now, my question to you, Mr. Witness, is: The nitrogen which Farben produced in its own plant and which was used for the production of intermediate products which were produced, was not charged to the quotas of the Nitrogen Syndicate, is that right?

A That is correct, for all those products which, in the final analysis, were not sold via the Syndicate. If for example, Urea, which is a nitrogen product, is made into Kaurit Glue, this had nothing to do with the quota of the Syndicate. Or if nitric acid is used for dye stuffs, then this also had nothing to do with the Syndicate.

Q Is it a fair statement then, to say that the nitrogen which Farben produced, and for which it had to use, in connection with its own chemical processes to produce its own products, such nitrogen was

not charged to the quotas of the Nitrogen Syndicate? Is that right?

A Something was wrong, I didn't quite get it, but I think we mean the same thing. Nitrogen which was used for products to be sold by Farben which were not, in the final result, nitrogen produced, did not belong to the quotas of Farben in the Nitrogen Syndicate.

Q I want to be specific about this. Nitrogen that went into the production of hexogene. Was such nitrogen charged to the quotas of the Nitrogen Syndicate?

A Yes, because Farben didn't produce any hexogene.

Q Who produced the hexogene, do you know?

A The explosive industries.

Q And did Farben supply them with the nitrogen for the hexogene?

A Yes. That is to say, not only Farben, but the German Nitrogen Industry via the Nitrogen Syndicate.

Q Are you familiar with . . .

MR. FLAEBISNER: The affidavits for which the witness has been called to be cross examined, contain not one word about hexogene or similar things. The questions put by the Prosecutor to the witness in this respect miss the point completely, the point which is treated in the affidavits. The limits of cross examination are abused in a completely inadmissible manner, and I object strenuously against it and I would be grateful to the Prosecutor if he would finally concern his cross examination to the questions at issue here. These are questions which concern gasoline, methanol, and similar things, but they do not have the slightest thing to do with nitrogen, hexogene, and those similar things.

BY MR. ANCHAN:

Q I will ask one or two preliminary questions. Mr. Witness, in Document Bueterfisch 220, you give a chart about the products of methanol by I. G. Is it not the fact that methanol is made from — or rather, I will withdraw that. Is it not a fact that from methanol the

explosive hexogona is made?

A Formaldehyde is made from methanol and that is one of the products which one needs for hexogens.

Q Is it not a fact that hexogene is made from methanol via the formaldehyde process?

A Hexogens is made of methanol. That is, of formaldehyde and of other materials, but not of methanol alone.

Q You refer, in your Document 228, to the fact that methanol went for the consumption for explosives. Do you recall that?

A Yes.

Q What explosives were you talking about?

A That is hexogen and nitroenta.

Q O.K. So, according to your own chart, you indicate that methanol went to produce hexogens and nitropenta, is that right?

A I didn't dispute that.

Q And you don't dispute it now, either, do you?

A I didn't dispute it beforehand either. I merely objected to the formulation used that methanol was the only produce from which hexogens was made. One needs various substances to produce hexogens.

Q I will ask you that in due time, Toluol is also made from hexogene, is it not? One of the ways of making toluol is from hexogene, isn't it?

A No, I think you probably made a mistake. One can produce toluol from Methanol, but not from hexogeno.

Q That's my question, I'm sorry.

A. But you said hexogens.

Q I am sorry. That was an error. Is this a fact that tetraol for explosives, is made from methanol?

A Yes, one can produce toluol from methanol and one did that during the war.

Q With that foundation, if your Honor please, I shall now direct my attention to the nitrogen, or rather, to the production of

hexogene. Now, you stated, and correct me if I am wrong, that the nitrogen that went into the production of hexogene was charged to the quotas of the Nitrogen Syndicate? Did I clearly understand you to say that?

A The nitrogen which was used for hexogene, exactly like the nitrogen which was sold by the Nitrogen Syndicate, was charged to the quotas of Farben, that's correct.

Q Now, then, did Farben ship the nitrogen toluol to the explosive factories?

A That was a matter of the sales department, with which I had nothing to do, and the Sparte bureau had nothing to do with it either. That was a matter of the shipping office.

Q Well, do you know whether or not the production of nitrogen by Farben which was distributed to the explosive factories was sent directly by Farben to those explosive factories, or did it go through the Nitrogen Syndicate to the explosive factories?

A The nitrogen syndicate gave the order according to need and stocks on hand, to the various producers or to intermediary storage places.

Q I still don't understand your answer. Suppose you take the Rottweil plant of Dynamit A.G. that was producing hexogen, did the nitrogen from Ludwigshaven or Oppau go directly to Rottweil, or did it go to the Nitrogen Syndicate.

A The Nitrogen Syndicate was in Berlin and was a sales organization, and it gave its orders to the shipping departments of those places which had nitrogen on hand. I myself was never in a shipping department and I had nothing to do with shipping nitrogen, and I didn't bother about it.

Q I thought you testified that in connection with your work in Sparte I you dealt with Sales matters relating to the nitrogen production. Didn't you so testify?

A You must have misunderstood me. I didn't mention a word about sales. We had sales departments for those purposes. We merely were in charge of sale of nitrogen, quantities and types, and to supervise them as far as the profit is concerned.

Q Could you tell me one way or another the nitrogen production from Farben that went to the DAG plant Rottweil, or the other DAG plants producing explosives? Was that nitrogen sent directly from Farben to the DAG plants, or was it sent through the nitrogen syndicate? Could you answer that one way or another?

A I said already I had nothing to do with that, but probably the nitrogen was sent from the storage place of the Farben plant concerned, or from another plant which was situated closely to the plant which consumed the nitrogen, and that it was shipped in that manner.

Q And was it charged through the Nitrogen Syndicate?

A Yes, it was charged to the quota in the Nitrogen Syndicate.

Q Now, let me direct your attention now to Rustofisch Document 228, your affidavit, where you have the chart of the production of methanol by I. G. Farben. And you state that you made this chart on the basis of your experience in Sparte I, and through the utilization of tables in I.G. in the DAG which were presently available to you.

Now, just tell me what tables and what data did you use in compiling this chart? Tell me the source of your data.

A One moment, please. First of all on this table we have the production of methanol. For this purpose I took from Ludwigshafen -- but I must first say that the production of methanol until about 1941 only was carried on at Hannau. I asked for the data of the production figures and I looked for them in reports about the Sparte meetings of Farben, and I have in front of me a compilation of the Sales Combine, Department R, that is the competent sales department of Farben.

Q What Department?

A R, in Frankfurt. In this compilation of 5 February, 1940, the production of the years 1935 to 1939 is given. This is a contemporary notation.

Q Now, will you please identify this document that you had from Department R. I would like to see it. Can I have that identified by the secretary?

A I can show it to you, but I only have that one copy with me. If I give it to you I have no other document to base my statements on.

Q All right. I would like to see it.

THE COMMISSIONER: Mr. Amchan, the sergeant just informed me that the film runs out at 4:45, so we will have to stop at 4:45.

A I would like to have this back.

Q Now, Mr. Witness, this document that you handed to me, which you just testified about, is that an original document taken from the files at Frankfurt Department R?

A It is a copy which I had made in the Verdingen plant. It is the copy of a copy which is available at Verdingen.

Q Where is the original of this document that you just handed to me?

A Such a notation usually has one original and several copies.

one of these copies is in Verdingen and was copied for me there. Therefore, I must assume that this copy is still in Verdingen. Where the original is, which presumably was with the Department R at Frankfurt, I can, of course, not tell you.

Q And you had this copy made for you when? At the time of your affidavit?

A Naturally around that time, yes.

Q All right, and what other documents did you use in compiling this production chart for methanol?

A I have another compilation, as I have already said, from Ludwigshafen, which covers the year 1937 and after. Of this compilation I also received one copy for myself and the original is in Ludwigshafen.

Q May I see that document?

A If you please. (Document handed to counsel.)

Q Would you know whether or not copies of these documents are in the TEA office in Frankfurt?

A I could not say that.

Q Do you know whether or not the regular practice of Farben was to send such production figures to the TEA office in Frankfurt?

A The TEA office was an institution of Sparte II.

Q Did they not get the figures of production in connection with Sparte I?

A I know nothing about it, but I hardly think so. I hardly think that they got them officially.

Q What else did you use in compiling these figures on the production chart for methanol?

A What I just said covers the production -- that is the production curve of this table. Then I needed then the consumption of methanol for explosives and that is on the table at the bottom, in the right hand corner; that is the heavily drawn red field. For this I had data prepared for me by the DMG.

Q Tell me how you went about having the D/C prepare such data for you?

A I wrote Schindler, whom I knew, and I asked him to give me the consumption of methanol for Hexogens.

Q Do you have a copy of the letter you sent Mr. Schindler?

A No. It is possible that it is in my files, but I don't have it with me. I was more interested in the information.

Q I think this would be an appropriate time to suspend.

THE COMMISSIONER: We shall take a recess until ten o'clock tomorrow.

(The Commission adjourned until 4 May 1948 at 1000 hours.)

Official Transcript of the American Military Tribunal in the matter of the United States of America against Carl Krauch, et. al. defendants, sitting at Nurnberg, Germany, on 4 May 1948, 0900, Justice Shake presiding.

THE MARSHAL: The Honorable, the Judges of Military Tribunal VI, Military Tribunal VI is not in session. God save the United States of America and this Honorable Tribunal. There will be order in the court.

THE PRESIDENT: Make your report, Mr. Marshal?

THE MARSHAL: May it please your Honors, all the defendants are present save the defendants Haeffliger and Hoerlein, absent due to illness.

THE PRESIDENT: Are there any announcements from counsel this morning? Mr. Prosecutor?

MR. SPEECHER: Mr. President, I have just given the index to the last full document — rebuttal document book — and sometime this morning, as soon as we can get in contact with the fileroom and get the exhibits, we will be in a position to mark in the second rebuttal document book concerning Auschwitz.

THE PRESIDENT: You call our attention to it when you are ready and we will hear you.

Anything further, gentlemen? If not, the Tribunal has two or three rulings to announce. Judge Morris will speak for the Tribunal on one matter.

JUDGE MORRIS: On March 22, 1948 Dr. Rudolph Dix, attorney for the defendant Hermann Schmitz, filed with the Secretary-General a motion to strike Prosecution Exhibit 334, Document NI-5187, so far as the statement of the defendant, Hermann Schmitz, of September 17, 1945 is contained therein.

The defendant Schmitz has not taken the witness stand and has, therefore, not subjected himself to examination and cross examination. The Prosecution Exhibit 334 is an affidavit of the defendant Friedrich Hermann ter Meer in which the affiant purports to set forth the text of a written statement made by the defendant Schmitz pertaining to

matters material to the issues in this case.

The defendant Schmitz contends that his purported statement should be stricken from the affidavit of the defendant ter Meer because (1) it was not voluntarily made and (2) it contained in an affidavit and affidavits may not be admitted in evidence.

With respect to the first point, the defendant Schmitz quotes this order of Military Government No. 1 for the American Occupation Zone dated August 16, 1945 as follows:

"The following offenses are punishable by such penalty other than death as a military government court may impose."

Paragraph 33 of that order is quoted as follows:

"Knowingly making any false statement, orally or in writing, to any member of or person acting under the authority of the Allied Forces in a matter of official concern or in any manner defrauding or refusing to give information required by Military Government."

This Tribunal has ruled heretofore that a relevant statement of a defendant may be admitted in evidence against that defendant as an admission against interest whether the defendant takes the stand or not, unless the statement was made under such duress as to make it appear that it is not a voluntary statement of the defendant.

In this instance we have re-examined the record regarding the statement of the defendant Schmitz and find that it is a voluntary statement. The defendant, however, contends that because of the order referred to, the statement must be deemed to have been made involuntarily since under the terms of the order the defendant was required to answer questions put to him.

There is no showing that Order No. 1 was called to the attention of the defendant Schmitz or that he knew of it or had it in mind when he made the statement in question. He does not contend in his showing, in support of the motion, that he knew of the order or that it influenced him in making the statement. In fact, the circumstances disclosed by the record points to the contrary and it appears that the statement was made on

the part of the defendant Schmitz of his own volition and without duress.

The defendants' second point challenges the rule of this and other major war crimes tribunals that relevant affidavits are admissible in evidence if otherwise competent. We adhere to that rule. The motion for the defendant Schmitz is overruled.

THE PRESIDENT: Judge Hebert will make a ruling for the Tribunal.

JUDGE HERBERT: Under date of April 1, 1948 Dr. Karl Hoffmann, as attorney for the defendant von der Heyde, filed a motion requesting that the Tribunal rule "that the fact of the extermination program of Jews, in spite of rumors and the knowledge individual persons had about it, admits of no presumption that each member of an organization declared criminal by the IMT had knowledge about that and that it is for the prosecution to prove specific knowledge in every single case."

The motion suggests that a preliminary decision in the nature of a ruling on this matter of law would serve to expedite the trial of the case. The Tribunal has had this motion under consideration. It amounts to a request to the Tribunal to enter at this time an interlocutory ruling of substantive law applicable to Count IV of the indictment.

The Tribunal expresses no opinion as to the correctness or the incorrectness of the matter of law here advanced at this time. This question will be referred to consideration in the final judgment. Moreover the evidence on behalf of the defendant van der Hyde has been presented since the filing of the motion so the motion filed by Dr. Hoffmann under date of 1 April 1948 is here and hereby overruled.

THE PRESIDENT: On behalf of the Tribunal, I shall announce a ruling on two motions filed by Dr. Lemart on behalf of his client, the defendant Kuehne. The first motion was dated April 20 and refers to Exhibits 2072, 2074 and 2079, introduced by the prosecution in the course of the cross-examination of the defendant Kuehne.

The second motion refers to Exhibits 2064 through 2070, Exhibit 2073, Exhibits 2075 through 2078 and Exhibits 2080 through 2083. The

motion is in the alternative, asking the Tribunal to reject the enumerated exhibits as not being proper rebuttal or, if the motion is overruled, to provide certain relief to the defendant with respect to the exhibits, that I shall notice presently.

The motion to strike the exhibits mentioned as being improper cross examination or rebuttal is now overruled by the Tribunal. In the alternative the counsel has asked that if the motion is overruled, that the Tribunal make available to counsel all of certain of the documents with respect to which only a part of the documents were offered in evidence by the Prosecution.

As to the latter feature, the defendant is entitled to offer the entire document if it is pertinent, since the prosecution has offered a part of the document. It is not necessary for the Tribunal to make a specific order for the processing of those documents. They are in the files and will be processed and made available to counsel for the defendant in due course if he determines that he needs them.

Now, just one thing further: we have pending a motion to strike certain documents that are found in the Prosecution's Document Book 92, which were documents that were offered in rebuttal. The Tribunal will ask counsel for the prosecution to get into its hands by eight o'clock tomorrow evening whatever it may have to say with reference to why those documents should be considered as proper rebuttal. The Tribunal will be in chambers tomorrow evening. This need not be a formal motion but, if the Prosecution wishes to make any representations before the Tribunal rules, please give us an informal memorandum of your views by that time because the Tribunal will expect to rule as promptly as possible with respect to that motion.

If I may anticipate for one moment, the Prosecution has announced that it will today offer another group of documents in the way of rebuttal which I think it has denominated as its Book 93. We shall expect like promptness on the part of counsel for the defendants and ask them to see that the Tribunal receives an informal memorandum of its reason why any or all of those documents should not be received as rebuttal by the same hour, eight o'clock tomorrow evening.

We realize that that is short notice, gentlemen, but we feel that you are entitled to know as promptly as possible what documents will be or will not be admitted in the rebuttal so that you may plan your own course of action with respect to the remaining features of the trial.

And, finally, may I remind counsel for the Prosecution and defense alike of the fact that there is going to be a heavy burden imposed upon the processing agencies with respect to arguments and briefs. Those documents, as you gentlemen know, must be translated and micrographed and the Tribunal would remind you again to remember your time limitations and also to bear in mind that if you submit more argumentative material than you can use in your allotted time, you are thereby depriving yourself of facilities that you shall need when it comes to the processing of your briefs. If you can limit your argumentative material to that which you will use in the courtroom and submit your arguments for processing within the proper time, the Tribunal will do all that it can do in order to see that there are no delays on account of administrative difficulties.

If there are no further announcements, Dr. Siemers, you may continue.

DR. SIEMERS: (counsel for defendant von Schnitzler): Your Honors, in conclusion I wish to put three questions to the witness in supplementation to yesterday's examination.

WILHELM DOLRING - Resumed

DIRECT EXAMINATION (Continued)

BY DR. SIEMERS:

Q. You have correctly stated that the economic groups and the

Reichsgruppe are not official authorities. Since you have given us the entire picture, let us conclude it properly. Therefore, I shall put another two questions to you. Do you know who appointed the heads of the Economic and Reichsgruppe?

A. The heads of the Economic and Reichsgruppe were appointed by the Reich Ministry of Economics.

Q. My second question is this: Were the heads of the Economic Groups at the same time heads of the corresponding Reich offices?

A. I don't know whether that was regularly the case but in the majority of cases they also held these official positions.

Q. Could you tell me how it was in the case of the Economic Group Chemistry?

A. Yes. There, for instance, it was so.

Q. Who was the head of the Economic Group Chemistry?

A. The head? I am sorry; I can't tell you that at the moment.

MR. SPECHER: I think I can even save myself some cross examination by stipulating with Dr. Siemers on this point. The head of the Economic Group Chemistry was Dr. Claus Ungewitter and at the time Ungewitter -- I mean the business manager, right?

A. Yes, business manager.

MR. SPECHER: And at the same time Ungewitter was head of the Reichsstelle Chemie, Reich Office of Chemistry in the Reich Ministry of Economics.

A. Yes, that is correct.

DR. SIEMERS: I have no further questions to the witness.

THE PRESIDENT: Is there any further questioning of this witness on behalf of the defense?

Then, Mr. Witness, you are excused from further attendance.

Oh, I am sorry; I thought you had no further questions, Mr. Prosecutor. I misunderstood you.

MR. SPECHER: I said I could avoid some questions by that stipulation because I wanted to make that point clear among others.

THE PRESIDENT: I frankly admit I was on the German channel here and my understanding was not too good.

CROSS EXAMINATION

BY MR. SPECKLER:

Q. Dr. Dearing, with respect to the policy which the Economic Groups had to follow underneath the National Law for the Regulation of Economics, did any orders the Economic Groups received come through the Reichsgruppe or did they come directly from the Reich Ministry of Economics?

A. I don't quite understand your question. What do you mean by "orders." It is a matter of course that the directives of the Ministry had to be obeyed and in that case they always came from the Reich Ministry of Economics.

Q. Yes, that is right. Now my next question is: did any directives from the Reich Ministry of Economics that applied to the Economic Groups, the Wirtschafts-gruppen, have to pass through the Reichsgruppen before they went to the Economic groups, the Wirtschaftsgruppen, or did they go directly from the RM?

A. With respect to matters which concerned the field of the Economic Group, they could come down directly, but in general questions they had to go through the Reich Ministry of Economics and were then sent to the Reichsgruppe.

Q. When the Economic Groups performed any functions on behalf of the Reich Ministry of Economics or in which the Reich Ministry of Economics was interested, did the Economic Groups forward those materials through the Reich Group Industry or did they send them directly to the Ministry of Economics, or don't you know?

A. If the Reich Ministry of Economics asked for material from the Economic Groups they probably sent it directly. If an opinion was to be expressed on general questions, then the Reich Group Industry would ask the Economic Groups for the relevant information and would then pass the collected material on to the Reich Ministry of Economics.

Q. Now, did you personally know anything about what the individual 31 Economic Groups Wirtschaftsgruppen, were doing or were not doing in connection with mobilization questions?

A. No.

Q. You did not know about that?

A. No.

Q. Now, before the National Law for the Regulation of Economy was passed, or before Hitler adopted the so-called Gleichschaltungs Program, did your old organization, the old Reichsverband der Deutschen Industrie, the old Reich Association of German Industry -- did that have to follow the directives of the Reich Ministry of Economics before Hitler?

A. You can't put it that way. Opinions were often asked from the old Reich Association which were then adhered to by the Reich Ministry of Economics. Actual directives, however, were never issued.

Q. You mean no directives were issued by the Economic Agencies of the Weimar Republic to the Reichsverband? Is that correct?

A. Well, these questions go back a long way and I told you that I didn't know very much about the organization. Your question is very difficult to answer.

Q. All right. Now, you mentioned something about some gentlemen who may or may not have been typical Nazis, in your opinion, during 1933. When did you join the Party?

A. In May 1933.

Q. That is right. Thank you.

MR. SPEECHER: No further questions.

THE PRESIDENT: Anything further, Dr. Sigmars?

DR. SIGMARS: No further questions.

THE PRESIDENT: Then, Mr. Witness, you are now excused from further attendance.

DR. SIEMENS: (Counsel for defendant von Schnitzler): That concludes the presentation of evidence on behalf of my client Dr. von Schnitzler, with the exception of one document book, which was already approved by Judge Merrell and which will be handed in later.

THE PRESIDENT: Very well, Dr. Siemens.

DR. RUDOLF DIX: (Counsel for defendant Schmitz): Your Honors, before commencing my presentation of evidence on behalf of the defendant Schmitz, I should like to put a question concerning procedure to you which arises from the ruling just announced by Judge Morris. Since my motion has been rejected, the situation stands at the former ruling of the Tribunal to the effect that affidavits will not be considered insofar as they incriminate other defendants.

I do recall, however, that at the very beginning of the trial when this question was discussed once before the President told us that after it had been ascertained that the defendant concerned will not take the witness stand, the entire Defense had to make specific motion that such affidavits not be considered insofar as they contain incriminating evidence against other defendants; because that occurred a long time ago and there was some confusion between the motion and the decision, I think it is expedient if I ask the Tribunal now whether my recollection is correct as I have stated it. And, if so, is it permissible for me to put the motion at this point.

Naturally, I would do that in writing and I would mention to the Tribunal the exact exhibits of those affidavits which are concerned with respect to this question. Only affidavits of the defendants Lautenschlager, von Schnitzler and Schmitz are concerned.

THE PRESIDENT: Dr. Dix, I think you do properly understand what the Tribunal indicated. Perhaps the confusion in your mind is due to the fact that, I am not sure — I don't believe it was you, perhaps some other counsel started to make a motion of that kind the other day and I suggested on behalf of the Tribunal that there is no way for us to know

that some defendant who has not yet testified might take the witness stand.

Let me suggest that one motion of that character be prepared and file, and I may say to you that the Tribunal will withhold ruling on the motion until we are about to close the evidence, and then we shall rule on it. Some of you might perhaps change your mind and then that would make confusion on the record and it would be complicated to untangle what we had done. So, I think you do have the correct understanding of what our ruling was, and if you will see, on behalf of the Defense counsel, that the proper motion is placed on file, we can assure you that we will, before we close the evidence, rule on the motion as we have indicated we would. And that will take care of the whole thing for all concerned.

DR. DIX: Thank you. I shall act accordingly and I shall only put in my motion at the end of the presentation of evidence or at such time when it will be ascertained that none of the defendants will take the witness stand.

THE PRESIDENT: You can assure in the meantime that the defendants will not testify, and prepare your motion. But just as a matter of protection, the Tribunal will not rule on it until we are about ready to close the case when we know from the record what defendants have not testified.

DR. DIX: I shall now start my presentation of documents. The first document will be Exhibit No. 12. I should like to point out that up to this point my document and exhibit numbers have always been the same.

This is a document of a Vorstand member of the Deutsche Bank, Hermann Abs, who since 1940 has been a member of the Aufsichtsrat of the I.G. Farbenindustrie. The Tribunal will recall --

THE PRESIDENT: Pardon me, Dr. Dix, will that bear Exhibit No.

72?

DR. DIX: Yes.

THE PRESIDENT: Thank you.

DR. DIX: Document and exhibit numbers have always been the same so far.

THE PRESIDENT: Thank you.

DR. DIX: The Tribunal will recall that the Deutsche Bank was the leading banking organization for the disposal of I.G. shares and loans. The connections, therefore, were particularly close.

Your Honors, it was my intention to call this Mr. Abs as a witness into this courtroom. I am sure he would have been a very interesting witness. Since, however, he intended a trip abroad, I had to obtain his testimony by means of an affidavit. When the affidavit was submitted, it proved to be so well prepared, so well thought out, that, in the interests of time, it seemed to me to be superfluous and even cumulative to call Mr. Abs here as a witness in addition to that affidavit. This affidavit, therefore, will suffice for me. This rather extensive affidavit deals at first with the position of Mr. Abs toward I. G. Farben. He then deals with Farben's finance policy, which is the particular department of which my client was in charge.

He then goes on to discuss the loan negotiations and, in particular, the plan of the dismantling of the concern which was planned by Schmitz. Then he discusses the attitude of the Farben Vorstand, and in particular that of my client as the man in charge toward the shares which were in the possession of the smaller people. And, what is very important, he also discusses the position of Farben abroad and towards the foreign countries. Then he speaks of my client's position in the Third Reich and his attitude toward the prevailing regime. Finally, he discusses the significance of Mr. Schnitz's position as a member of the Advisory Council and the Committee of the Deutsche Reichsbank. The Prosecution has attached significance to that membership which it does not deserve.

Abs has been a member of the Vorstand of the Deutsche Bank since March, 1937, as he explains in his affidavit. In particular, he dealt

with the foreign business of that bank. For that reason, as he explains on page 1 of his affidavit, he was elected into the Aufsichtsrat of Farben in 1940. In his very detailed explanations about the finance policy of Farben of which my client was in charge he states many interesting matters with regard to the autonomous financing and the combination between capital increases and capital adjustments. That is to say, the increase of the nominal capital by use of reserves after taxes and depreciations.

He discusses capital adjustments and regular increases by the use of new capital. All these very interesting explanations should be read; they are too detailed to present them here.

His indications on pages three and four are important. He says that the very careful treatment of the so-called capital adjustment by Dr. Schmitz shows that he in no way prepared actively the outbreak of war or was optimistic about its conclusion. On the other hand, he proved by the precautions he took, by availing himself of all the possibilities within the law that he wanted to use all his reserves in order to meet the consequences of war which he foresaw in his pessimism. This is relevant in connection with Count One of the indictment.

On page 6 and the following pages his description is interesting with respect to Dr. Schmitz's constant consideration to decentralize Farben, which had become too large for him. He, as it is stated, intended to decrease the size of Farben by disposing of some shares of certain plants. This proves that it is wrong to designate him as one of the promoters of the over-increasing extent of Farben. Abs tells us of the contrary.

On pages 6 and 7 he gives a character description and he speaks of the social and ethical character of my client; he speaks of the care he exercised with respect to the small shareholders. He speaks of his very considerate cooperation with the various banks, his consideration with respect to interests of the small shareholders and with respect to each having his vote.

On page 8 he describes his experiences during the status quo negotiations with foreign countries. He says that the foreign creditors often wanted to bring about an exchange with respect to the credits, and says again and again it was tried to obtain a better debtor, to get Farben as a debtor, because, as he says Farben was considered to be second to none abroad, and it was always considered that their credit capacity could not be surpassed.

On page 9 there is an explanation which shows the considerable international interests of Farben, and in particular of Schmitz with whom these negotiations were made. He explains his absolute interest in the maintenance of peace.

Very relevant in that connection is his description, at the bottom

of page 9, that Schmitz in particular knew how to keep the Party members out of the administrative organizations of Farben. He emphasized that Farben always tried to keep their Jewish Aufsichtsrat members as long as it was at all possible.

On page 10 he makes a statement which seems to me to be particularly important for the motives of my client with respect to the contributions he made. According to the affiant's own experience, these are sufficient indications for my client's attitude. Abs states that everybody who held an exposed position, such as Schmitz's, was also subject to constant dangers in view of the Party's mentality and that of its leaders. At the end he says, and I quote:

"I think I can state from my own experience that the international relationships of a German in an important position in economy was a source of constant danger for him. It meant that he was continually and carefully watched. In 1942 it was endeavored by the Party to make banks dependant on the Party by removing personalities who were considered by the Party as being untenable, and by the appointment of men with Party political interests. The Party and their followers never had the slightest thought that Schmitz was a person reliable with respect to the position in the Aufsichtsrat of the Deutsche Bank."

On page 11, under paragraph 7, he speaks of the insignificance of the General Advisory Council of the Deutsche Reichsbank.

That is essentially the contents of this affidavit which I submit for the particular attention of the Tribunal.

DR. HELTE: I am sorry to interrupt; Your Honors, the defendant Mr. Mann is now waiting to be escorted to the Commission where a witness will be heard at ten o'clock. May I ask that the Marshal be directed to escort him there?

DR. SILCHER: Mr. President, I make the same application on behalf of Dr. Bueckfisch who also has to attend a Commissioner's hearing at ten o'clock.

THE PRESIDENT: The defendants Mann and Bueckfisch will be excused to attend the Commissioner's hearing.

DR. DEX (Counsel for defendant Schmitz): The next document, No. 73, will also become Exhibit 73. This is an affidavit of the personal physician of my client, Dr. Bloch—no, Dr. Singer. Dr. Bloch was the former personal physician, and Singer was his successor.

I should like to read this affidavit in its essential points. I don't think I have to quote it; I should just like to point to page 2 of the affidavit where the affiant claims to be particularly acquainted with my client's political attitude because a patient is more ready to confide in his physician than to anyone else. At the bottom of page 14 he arrives at the conclusion and I quote: "In numerous confidential conversations he revealed to me his innermost feelings and strengthened my conviction drawn from the knowledge of his career that Hitler's emotional conceptions and measures were diametrically opposed to his principles and ideas, and caused him a moral revulsion. Rarely have I seen a person in such a emotionally shaken state of mind as Dr. Schmitz was on the morning following the burning of the Jewish synagogues in November, 1938."

On Page 16 the affiant describes the motives of why Schmitz wanted at least not to sever certain external connections between the Party and the Reich authorities. This refers to Schmitz's membership in the Reichstag and his activity in the House of German Art, Haus der Deutschen (Kunst.)

On page 16 he says that he did that only to protect the interests which were entrusted to him and to protect his own person, that he was compelled to hide his basic opposition to the Nazi regime and to maintain at least an external contact.

At the end there is a medical finding, and I think that is of some value in view of the motion I made which led to an order by the Tribunal to have my client medically examined. It is a fear which almost borders on paranoia with which my client was almost always burdened. He quotes: "For many years I was a witness of my client suffering mentally and physically. He became a lonely sufferer from tyrannical demands."

This brings me to the end of my presentation, and I shall now submit Document 74. This will become Exhibit No. 74. It is an affidavit of

Wilhelm von Fluoggo. In explanation of this affiant's character I might say that Fluoggo was confined by the Gestapo in connection with the revolution of the 20th of July, 1944, up to the time of the German collapse. This affiant is a character witness, speaking on behalf of my client. In particular, he describes the environment which influenced him, and among them he mentioned Mr. Merton, with whom the Tribunal will be sufficiently acquainted, and also Richard von Hbellendorf, the well-known international economist. He describes this man in detail in his affidavit, and he shows that because of his desperation about the National Socialist regime by committing suicide.

He then explains how Bosch and Warmboldt influenced my client considerably.

I think that will suffice in that connection.

The next document will be No. 75, Exhibit 75, an affidavit of the former Staatspräsident of Württemberg during the time of the Weimar Republic. He was married to a "non-Aryan," as they used to say in phraseology the Third Reich, and for that reason he emigrated in 1939. This affidavit emphasizes, among other matters, that Bosch as well as Schmitz assisted him and his wife in every possible way when he had to leave Germany. It may be interesting to note his concise statement in the next to the last paragraph on page 1: "But he was lacking the ability to form a political judgment."

DR. DIX: And then we turn to a very illustrative affidavit of our colleague Friedrich Silcher, who was the Chief of the Legal Department of Farben NW 7. He describes the characteristics of occurrence pertaining to Geheimrat Schmitz attitude toward the Jewish question.

In the Reichsgesetzblatt there appeared a decree pertaining to the Jewish status of various people and what companies were to be regarded as Jewish and which were regarded as "arian". It was then stated that even if one Jew was a member of the Aufsichtsrat it would be considered that he had Jewish company. He naturally reported that matter to his boss as a matter of duty. Mr. Schmitz, whereupon Mr. Schmitz violently stated, "Are you in any way opposed to be active in a Jewish Company?". You can read the rest. I do not think I gave this document an exhibit number. It will become Exhibit No. 76.

Now we shall turn to 77, which will also become Exhibit 77, excerpts from the minutes of various Vorstand meetings from which it is apparent that again and again Schmitz emphasized the necessity for strict economy and caution in regard to the new investments. We can dispense with any further reading of that document.

Then we have Document No. 78, Exhibit 78; it is a copy of a letter of Dr. Walter Hoyer, who until 1945, was head of the Central Committee of Farben. This letter is dated 23 October, 1936. It shows that the Chief of the National Socialist Public Welfare Organization, NSV, Hilgenfeldt, criticized the Farben contribution to the Winter Aid as not being in proportion to its size. You will find that in paragraph 2, page 1. He pointed to the contribution of the Rhine-Westphaelisches Coal Syndicate, which was very considerable.

Mr. Sprecher just pointed out to me that there was a mistake in the translation. I said he was "Head of the Central Committee" which was translated in the index as "Chief". Actually, he was merely the "head" of the office.

Now we turn to Document 79 which I can introduce en bloc up to and

including Exhibit 83. That is to say, 79 up to and including 83. These documents will bear the corresponding exhibit numbers. I do not really need to repeat them all of the time, because the document numbers are always the same as the exhibit numbers.

I submit these documents for the following reasons. The Prosecution presented material on the Sudeten contribution of 100,000 marks, and 500,000 marks, and the impression may be created as if in the case of these contributions we are concerned with contributions which arose from Farben's own initiative. In order to prove that this opinion is erroneous, these documents are being introduced into evidence. The Farben files about these events are, unfortunately, no longer available. If they were, this matter could be proven on the strength of these documents.

Document 79, for instance, proves that the files were still available at Griesheim after the German collapse, and that they were presented to American Agencies. The document also shows that they are no longer available today.

Documents 80 to 81 show, generally, that so-called central contributions were not due to Farben's initiative, but that they were due to solicitations by party or state agencies, directed to any one Farben office. In order to avoid that every individual Farben office was separately approached, the I.G. Farbenindustrie decided to centrally settle these matters.

In summary, this document is being submitted in order to prove that even this Sudeten contribution was within the framework of a general solicitation of funds under the name of NSV, National Socialist Public Welfare Agency, an organization which approached every single member of the German population.

Document No. 83, in particular, shows another example of a contribution, the Austrian contribution. Whenever the official agencies wanted some contributions, Farbenindustrie always wanted to be informed in detail about the necessity of such contributions and their disposition. If a party organization was collecting such contributions they wanted to know

that they were always used for social and charitable purposes, and never for political purposes. So much for these documents, 79 up to 83.

Document No. 82, which will be Exhibit 84, is the affidavit of Dr. Pistor. It refers to the testimony of Dr. Struss, in so far as he mentions Geheimrat Schmitz. I should like to quote the relevant passage which I consider important:

"Herr Schmitz held a very suspicious attitude toward such matters, for one, Mr. Schmitz would not have been competent for such a general decision. In addition, I remember exactly that Schmitz was particularly cautious with respect to the field of magnesium, and its alloys, since its development had required an unusually high expenditure, and he also displayed this caution towards the new project". So much for No. 84.

The next Documents, 85, which will bear Exhibit number 85, 86 same Exhibit number, and 87 can also be introduced en bloc. These are minutes of Aufsichtsrat meetings where Schmitz, by an order of the Vorstand and in line with his legal obligations, reported to the Aufsichtsrat about the preceding business here.

The Prosecution has designated those passages of the report where Schmitz reported on the labor question, and the employment of foreign workers and prisoners of war, as an order issued by Schmitz.

The same opinion is found in the indictment, as well as in the Trial Brief. I am submitting these documents in order to prove firstly how such Vorstand reports were drawn up, and furthermore, to show that Schmitz, in his position as spokesman on behalf of the entire Vorstand, only reported on the basis of the individual Farben agencies. He did not issue any order for the future, but merely reported on something which had occurred in the past.

This brings us up to 87. I shall now turn to 88. I shall introduce 88 up to and including 90 together. They will bear the corresponding exhibit numbers. I offer this document as additional proof to the proof which already has been brought in my opinion, that the contributions of 100,000 Reichsmarks from 1941 to 1943, were contributions for the

windows and orphans of SS men who had died during the war, and it is also proven that they were actually used for that purpose.

It will be sufficient if the members of the Tribunal will read these documents, and the proof will easily become apparent from the text.

I shall now turn to 91. This is an affidavit of Dr. Albrecht Weiss, and it will bear the same Exhibit number. The Tribunal knows Mr. Weiss, from my former document books. He was the head of the Personnel Department of Farben, Ludwigshafen. He tells us about the so-called Herman Schmitz Foundation which was set up on the occasion of the 60th birthday of my client, by decision of the Vorstand.

The purpose of this Foundation was the support and the assistance of orphans of workers and employees who were killed in action. Here again we have his ethical hobby, - if I may call it that, - to care particularly for orphans and for widows. In those cases his heart was always very open.

Then there is the decision of the Vorstand in connection with the 25th Anniversary of Schmitz service for Farben. The Foundation was extended to every orphan child of Farben. Each of these children had to receive 100 marks per year up to their 18th year. The witness calculated that in 1941 and 1944 1,300,000 marks were paid and I might put the question, "Was Schmitz to except the widows and orphans of SS men who were killed in action?"

I now turn to Document No. 92, Exhibit 92, which deals with the problem of Schmitz' membership in the Reichstag. The affidavit originates from the former Ministerialrat Dr. Hans Globke, who is now treasurer in the city of Aachen. He was a high official of the Ministry of the Interior, the Prussian Ministry of the Interior, and then the Reichs Minister of the Interior, particularly during the years 1932 until 1934, when he was the head of the Constitutional Department of that Ministry.

The witness reports how the list of the candidates for the first Reichstag of the Third Reich was drawn up. The Third Reich, as we know, was dominated by the one Party system. He says that a number of prominent persons from various circles of the population not belonging to the party were included and listed as guest representatives.

"It is known to me," he says, "That Geheimrat Schmitz belonged to

these personalities who in this manner became members of the Reichstag."

I should like to make a sort of argumentative remark. Here again we have the same matter Goering and his followers wanted to gain more prestige. They wanted to show the world, "Just look at the prominent persons we have in our midst". That is how the Staatsraete were appointed. The unfortunate conductor Furtwaengler who had nothing to do with the regime, one morning woke up and held the position of Staatsrat, and in the same way, many people woke up one bright morning and were members of the Reichstag.

I shall now turn to Document 93, bearing the same Exhibit number. This affidavit originates from an employee of Farben. He comes from the control office at Frankfurt-on-the-Main, and he confirms in that affidavit, that the enclosed is a true copy of the letter which comes from the chairman of the Verwaltungsrat Farben to Geheimrat Schmitz, Duisberg. In this letter Geheimrat Duisberg as Chairman of the Verwaltungsrat of Farben, informs Schmitz that the Verwaltungsrat has agreed that Schmitz should accept the Reichstag Position offered him".

Exhibit and Document 94, is part of the same subject matter. This is an excerpt from the book, "Der Grossdeutsche Reichstag", which shows that Geheimrat Schmitz was not a member, but rather a guest of the faction of the NSDAP.

The next affidavit, from the same Krommüller, is Exhibit 95. It is a circular letter of the faction head of the NSDAP, Reichstag faction. There is an attached copy which shows the complete insignificance and lack of influence of the Reichstag representatives in the political field. The Reichstag in reality was nothing but a "Singing and Athletic Association" as it was called popularly.

96 will become Exhibit 96. It is an affidavit of Mr. Zangen, well-known to us by now. He was properly designated by the witness who appeared here yesterday as the head of the Reichsgruppe Industry. He speaks concerning the appointment of Schmitz to the inner advisory Council of the Reichsgruppe Industry, and his activities on the Advisory Council.

The witness confirms that Schmitz' interest was only very slight and he only participated in discussions when it pertained to his own field of work, - that is, financial matters.

In summary I offer 97 and 98 en bloc. These affidavits show that Schmitz, from the middle of 1943, hardly ever left Heidelberg for reasons of failing health and for that reason did not re-establish his contact with Farben agencies. This, I think, is of significance with respect to his information pertaining to events outside of Farben.

Now we turn to Document No. 99, which is an affidavit of the Prokurist Frontzel. The witness compares the donations of my client from his personal fund for 1940 to 1944, with the net income he derived in the same period from his professional activities. He arrives at the following results. According to the compilations of his social donations they amounted to approximately 7000 marks less than his income from his position as Chairman of the Vorstand. He expresses again, that the figures only include contributions made by Geheimrat Schmitz out of his own means. They do not include the sums of the company. Then there is another character witness, an affidavit which tells about his attitude toward the church. It is an affidavit of his parson, and shows his attitude and his willingness to help.

This brings us to the end of Document Book No. 5. Up to now, the exhibit numbers and the document numbers were always the same. If now, however, I introduce the supplement volume to Book 5, this happy situation would change, because these supplements were finished later than Document Book 6. I shall bow to the wish of the Tribunal; if the Tribunal wishes me to maintain the sequence, I shall submit Book VI and on then Book V. If, however, the Tribunal will prefer for me to go on to V I shall change the sequence of the Exhibit numbers, and I shall start with V.

THE PRESIDENT: You may just use your own pleasure about the matter, Dr. Dix, and before you start on the next book I think we will

take our recess.

Just a moment, please.

MR. SPRECHER: I have the exhibits and perhaps I might take five minutes out later.

THE PRESIDENT: Immediately after the recess we will permit you to introduce your exhibits, Mr. Sprecher, and Dr. Dix may then resume.

The Tribunal will now rise.

(TRIBUNAL IN RECESS FOR FIFTEEN MINUTES:)

THE MARSHAL: The Tribunal is again in session.

MR. SPRECHER: Mr. President, we just wanted to raise one thing which we had mentioned to you last week. It appears that the commissioner can not possibly hear even the very limited number of affiants that the prosecution is calling at this time and would like your attention directed to the appointment of another commissioner again.

THE PRESIDENT: We just learned that a moment ago and also we are disturbed to know that there is some problem about facilities for a commissioner which we are going to make our position clearly understood concerning. By the way, we have arranged for Mr. Mulroy to act as a commissioner in some hearings, but I think because of the state of our record we should put on the record the names of the witnesses to hear and when you can, if you will supply me with the names of the witnesses, I will dictate the order.

MR. SPRECHER: Thank you, Mr. President. Then in our Document Book 93 there are a number of —

DR. SEIDL: Mr. President, this afternoon there is a session of the commission. The defendants Duerrfeld and Amoros ask to be excused from the afternoon session here.

THE PRESIDENT: That will be entirely satisfactory.

MR. SPRECHER: Referring to Prosecution Document Book 93, our second rebuttal book, we are now prepared to make these documents in evidence subject to the rulings which Your Honors made the other day. NI 11938 will become Prosecution Exhibit 2199; NI 15148, Exhibit 2200; NI 11787, Exhibit 2201; NI 10815, Exhibit 2202, NI 15252, Exhibit 2203; NI 10818, Exhibit 2204; NI 15152, Exhibit 2205; NI 15253, Exhibit 2206; NI 15256, Exhibit 2207, NI 15254, Exhibit 2208. Now, Your Honors, with respect to the next group of affidavits I have just one brief remark. We are planning to offer only those affidavits of the defense affiants who would be called before the commissioner concerning Auschwitz, and that would save a reproduction problem. Those would be used in cross-examination in any event. NI 14287 will become Prosecution Exhibit 2209;

NI 8909, Prosecution Exhibit 2210; NI 11643, Exhibit 2211. I believe Dr. Nelte withdrew his affidavit from the next affiant and temporarily we will skip over that and take no position about it. Then the next — I'm sorry, I meant Dr. Seidl. I said Dr. Nelte. The next one is NI 15127 and that will become Prosecution Exhibit 2212. The one I skipped over was 9817. Then 15248 will become Prosecution's Exhibit 2213; 15249, Prosecution Exhibit 2214, NI 14490, Prosecution Exhibit 2215; NI 14491, Prosecution Exhibit 2216; NI 15245, Prosecution's Exhibit 2217, NI 15246, Prosecution's Exhibit 2218; NI 15427, Prosecution Exhibit 2219; NI 15250, Prosecution's Exhibit 2220. That concludes that book.

THE PRESIDENT: Now, since some defense counsel may now be present that were not here this morning, at the opening of Court, permit me to repeat, on behalf of the Tribunal, that if there are to be any objections to the introduction of the documents just offered by the prosecution out of its Rebuttal Book 3, the Tribunal will expect to have an informal memorandum that need not clear through processing channels by eight o'clock tomorrow evening, and if perchance you gentlemen are embarrassed about getting us a memorandum in English, we have made our own arrangements for a translator so that we will be able to handle your German memorandum without any difficulty.

DR. DIX: Mr. President, the ruling which you made this morning on this point, and the addition should be made known to the defense counsel on the bulletin board.

Since the Tribunal has given me certain liberties, I prefer to select the objective series of exhibit numbers and I shall now offer the supplement to my Book 5. Number 108 will be Exhibit 101. This is an affidavit of Dr. Krueger, a witness whom the Tribunal already knows. He worked for Farben since 1928 and was last head of the Central Finance Administration. He reports on the method of work of Mr. Schmitz as he knows it from his constant personal contact with him. The method of work of Mr. Schmitz in his functions as chairman of the Vorstand. And here again he emphasizes his main characteristic, his modesty and reserve. He

says that he never governed in the sense of active interference. He granted his colleagues great independence and never interfered with their work. And then he says something else in which we are also interested — that Schmitz, in view of his international activity, spent a large part of his time abroad, and he sums up in conclusion as follows: It may largely be ascribed to the democratic regime and methods of work prevailing in the I.G. Vorstand that a man like Schmitz, who had no desire to assert himself and was completely unassuming, and showed a lack of ambition in problems which did not concern his own province, was nevertheless highly respected as chairman of the Vorstand and was able to perform many useful and beneficial deeds."

Now, Document 109 which will be Exhibit 102. It's an affidavit of a Mr. Dencker, head of the Central Accounting Office in Farben since 1931. He reports first of all on the auditing system of the annual balance sheets of the concerns and the distribution of these reports. He says that this bulk of reports was sent to Schmitz' office mostly for statistical purposes and that, of course, Schmitz was in no position to read all these reports and they did not concern him individually and he, Dencker, sent a special summary report to Schmitz, a brief analysis of the most essential points of these general reports.

Now, we come to 110 which will be Exhibit 103. This is an affidavit of Pastor Roehrich who held a leading position in the Confessional Church. Just like the affidavit of the minister in the previous book, he speaks of Schmitz' positive attitude toward Christianity and toward the church and he closes with the words: "Whenever I met Geheimrat Schmitz, I could not fail but have the impression that in accordance with his convictions, he must certainly be included amongst our people, that is, those circles adhering to the Evangelical church."

This concludes Document Book V. I now come to Document Book VI.

First of all, Documents 101 and 102, which I offer as Exhibits 104 and 105. I should like to make an objection to these two documents myself since I expect that of Mr. Sprecher and even if it should not come, I consider it important to test the admissibility of these two documents and explain the admissibility. I know what objection could be raised. First of all, this document 104 is a letter of the former Reich Chancellor Bruening to the editor of the Deutsche Rundschau. This is a writing which has been published after the collapse of Germany. Also Mr. Sprecher, with some justification, could point out that an article or a letter to a magazine is not an affidavit, that it lacks the necessary oath, etc. I realize that, but I should like to emphasize that I am not concerned with verifying the

individual facts cited in the description of the causes of the development of 1933 in this Bruening letter. What I am interested in is that the following be accepted as evidence from this letter. First, that this letter was written at all and by a man who is recognized on all sides for his high ethical standards, no matter how one may think about him politically and secondly regardless of the views one may hold about the causes for the Third Reich, This problem is not so simple as the prosecution likes to imply in speaking of the alliance between the bad big industry, particularly Farben, and the military and Hitler who conspired to come into power and then subjugate the world, but that the causes were much more complex and were not even limited to the borders of Germany. If in this narrow sphere this exhibit is accepted, I would be grateful to the Tribunal. This evidence is quite sufficient for me. As I say, I place no weight on the details which are given in this letter and since I have offered 101 and 102 together as Exhibits 104 and 105, I might say that what I have just stated goes for the next document too. This is a speech made in 1947 telling how it happened that the economic collapse of the Third Reich, which in his experience all experts expected by the fall of 1934 at the latest, did not occur because of the very unexpected and unforeseeable economic events in connection with which there is not the slightest element of guilt on the part of those responsible for those events. This document, again, is not offered as evidence for the correctness of the individual facts cited, but only in proof of the difficulty and complexity of the entire problem of establishing the causes of this political development. I do not want to present any more from these documents than what I have explained here to justify the admission into evidence and I would be grateful to the Tribunal for a decision as to whether or not these documents can be accepted in this sense.

THE PRESIDENT: Dr. Dix, I can put your mind at rest with respect to that. There is a class of general literature in the field of economics and history as expressions of scholars and statesmen that Tribunals, courts,

ignoring the rules of evidence frequently resort to in the writing of judicial opinions and, without passing on the question of the technical admissibility of these documents, we'll leave them in the books for whatever they may be worth unless the prosecution joins you in your objections to your documents and places us in a position of having to rule on it from a technical point of view. So we will overrule your objection to your documents, Dr. Dix.

DR. DIX: The next document is 103 which I offer as Exhibit 106. This is an affidavit of Professor Hummel whom the Tribunal already knows. Again on the subject of the political attitude of Bosch which has been discussed at somelength and his drastic unsurpassable opposition, the careless expression of which repeatedly brought him in danger of being sent to a concentration camp and it was doubt due only to his outstanding international position as a scientist and man, that they did not dare to attack this man, and also statements about donations to the Frankfurter Zeitung for the consideration that in the hope that this regime would soon collapse and a good newspaper would be available immediately.

The next document is 104, offered as Exhibit 107.

Again 105, Exhibit 108, through 106, Exhibit 109, which I offer together. These three affidavits report on a very one-sided conversation, as conversations were apt to be with the functionaries of the Third Reich, namely with the Gauleiter of Oberdonau who told a Mr. Steinle, the affiant in Exhibit 107, in the year 1942: "I do not want to have the I.G. in my Gau. I have just been to see the Fuehrer. He was terribly furious about the I.G. because it is a state within the state. He has made up his mind to smash that whole racket completely after the war. He would love to do it right now, but that is not possible at the moment. But after the war they will not be spared any more, there will be a thorough cleaning up."

And finally, Document 107, Exhibit 110. That is the affidavit of a

wellknown man, a man who was known as Hitler's photographer, Heinrich Hoffmann. I met him after the collapse here in Nurnberg and one could learn a great many interesting and informative things from him. Here he tells us only about a statement of Hitler to the same effect as the one testified to in the preceding three documents, namely that Hitler, in 1943 or 1944, said the following: "I.G. Farben are international financially interlaced. They are peddling their patents to America. I shall make an example out of these saboteurs, and a number of them, and not the smallest ones, will be put against the wall."

This is an indication of the "Friendly" attitude of the regime, and particularly Hitler, toward these gentlemen and their company.

This, your Honors, concludes the presentation of my documents, but I am sorry to have to tell you that my excellent colleague and associate Gierlich, according to a telephone report, has had a breakdown with his car and is in Giessen. He intended to arrive here yesterday but his car did not want to let him.

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Now, we have one more book of documents about the DAG. Gierlichs worked on these and knows them much better than I do and I am sure it would be suitable for him to present them. Now, I believe I have plenty of time. I had half a day and have used only a little more than one-quarter so that I would be grateful to the Tribunal if Gierlichs, either tomorrow or the next day, could have half an hour or three-quarters of an hour to present this one book on DAG.

THE PRESIDENT: Just to keep the record straight, Dr. Dix, according to our calculations you used a little nearer one-third of a day than one quarter, but we won't quarrel over that because you have done very well in presenting your books and will you keep in touch with Judge Hebert and let us know when Dr. Gierlichs will be available so that we can arrange our schedule and receive the documents that you have referred to. Very well.

DR. DIX: Thank you.

DR. BOETTCHER: Your Honor, if I am to continue the presentation of evidence on behalf of Dr. Krauch I shall also submit a number of documents on behalf of the entire defense. We are now concerned with Document Book IX of Dr. Krauch.

THE PRESIDENT: What will be your next book after IX, Dr. Boettcher?

DR. BOETTCHER: The next document book will deal with the employment and treatment of prisoners of war and then follow three books with respect to German foreign policy. In conclusion thereto I may announce that I intend to call two witnesses: Hans Fritzsche, the radio commentator of the Third Reich who will testify on questions of common knowledge. I shall hear him for approximately half an hour. Then I shall call General Huchnermann. He was the chief of staff of General Thomas, the head of the so-called Military Economic Staff. I shall take approximately twenty minutes to hear this witness.

THE PRESIDENT: Very well, Doctor. You may continue.

DR. BOETTCHER: The other documents which I shall submit in Book IX on behalf of Professor Krauch are arranged in the sequence of the individual counts of the indictment. They are again divided into various fields within the sphere of the counts of the indictment.

Krauch #128 will become Exhibit 168. It is a supplementation to Krauch Exhibit #33, Document Book Krauch #2, English page 36. The next document, Krauch #129, will become Exhibit 169. It is an affidavit of General Field Marshal von Brauchitsch and confirms Dr. Krauch's statements during direct examination about Dr. Bosch's anxiety with respect to the development of German foreign policy in the summer of 1938. It is in connection with Krauch's direct examination, English record 5088.

Krauch Document #130, will become Exhibit 170. It shows the legal basis for the orders as a result of which the so-called Brabag was set-up. I offer proof for Dr. Krauch's statement during direct examination, English transcript page 5050 to 5051.

Dealing with the same subject is the next document #125 which I offer as Krauch Exhibit 171. It contains general policies with respect to orders by the Ministry of Armaments for the expansion of chemical production plants. I draw the Tribunal's attention to the fact that such directives were not issued by the Bebecham.

The three following documents, 141, 131 and 132, concern the exchange of experience with abroad. Krauch Document #141 I offer as Exhibit 172. This document is the same as Dr. Buotefisch's Exhibit 149 which is an affidavit of the American citizen and former vice president of Standard Oil, Howard, who discusses from the American point of view the implementation of the exchange of experiences between Farben and Standard Oil.

Documents 131 and 132, which I offer into evidence as Krauch Exhibits 173 and 174, confirm these statements by Mr. Howard.

THE PRESIDENT: Doctor, I believe you skipped a number if I am not mistaken. 131 should be 173 according to the way I have my book.

DR. BOETTCHER: Yes, 173.

THE PRESIDENT: And 132 would 174 then.

DR. BOETTCHER: Yes, Your Honor.

The two last documents are statements by Dr. Krauch's associates and they confirm Mr. Howard's utterances.

The next document, 146, I submit in order to refute Prosecution Exhibit 1919. I offer it in evidence as Exhibit 175.

Krauch Document #140, which I shall offer as Exhibit 176, represents a supplementation to Exhibits 142 up to 144, already in evidence, as well as 154 and 155. It shows with respect to the Four Year Plan Institutes that Dr. Krauch was interested in scientific problems only and not in Party politics.

Now I shall turn to documents pertaining to Count II of the Indictment.

Krauch Document #120, which I shall offer as Exhibit 177, deals with the conditions at the Continental Oel, A.G. The former member of the Vorstand, Karl Blessing, speaks on the subject. It represents a supplementation to Dr. Krauch's statement during direct examination, page 5162 and 5165 of the English transcript.

The next document, #154, I offer as Krauch Exhibit 178. It deals with Prosecution Exhibits 1978 up to 1980 which were put to Dr. Buotefish during cross examination. The document is to show that Dr. Krauch, in dismantling the plant at Sluiskil, showed no initiative of his own.

Dealing with the same subject are Krauch Documents #151 and #138 which are next in the book. They are to refute Prosecution Exhibits 1840 to 1843. I offer them as Krauch Exhibit 179 and 180 for Documents 151 and 138, respectively.

I now turn to a number of documents pertaining to Count III of the indictment. Document 123 will become Krauch Exhibit 181. It deals with the question of Dr. Krauch's attitude toward the SS's plan to take over industrial enterprises. In a second paragraph it confirms Dr. Krauch's attitude opposing forced labor.

Document No. 133 will become Krauch Exhibit 182. It refers to recruitment of workers from Italy into Germany and explains Dr. Krauch's endeavors to obtain voluntary workers.

The two following documents, 145 and 149, will become Exhibits 183 and 184. These are to supplement Dr. Goernert's statements who was employed in Goering's special train and he made some statement about Goering's order to use concentration camp inmates in the Auschwitz plant. He says in his statement that other large industrial enterprises, as the Hermann Goering Werke, were subject to a similar compulsion to employ concentration camp inmates.

Both the next two documents, 153 and 127, which will become Exhibits 185 and 186 resp. deal with violations of working contracts by foreigners. On the one hand they deal with the legal regulations about the duty to obey contracts and, on the other hand, they deal with the fact that the Gebechem never seriously prosecuted such workers who broke their contracts.

The next two documents, 124 and 119, I offer as Exhibits 187 and 188. They deal with the question of Dr. Krauch's initiative in the employment of concentration camp inmates. They say that he never did show that initiative.

Documents 126 and 122 are the next in the book. They will become Exhibits 189 and 190 resp. I repeat Document 126 will become 189 and Document 122 will become 190. They deal with the care shown by the Gebechem to increase wages and to care for foreign workers from a medical and nutritional point of view.

Document 137 will become Exhibit 191. It confirms Dr. Krauch's testimony which he made in reply to Prosecution Exhibit 1846 during

cross examination.

Documents 147 and 150 deal with the question as to whether Professor Krauch received the weekly reports of Auschwitz from local representatives at Kattowitz and Breslau. Explaining these documents, I might state that the local representatives of the Gabechem at Kattowitz and Breslau are included in the distribution list of these weekly reports. These local representatives confirm in those two affidavits which I am submitting, that they did not pass on the weekly reports to Mr. Krauch and that Mr. Krauch, therefore, never received knowledge of them. I offer these two documents as 192 and 193 respectively.

MR. STRECHER: Mr. President, can I interrupt on another subject, please? You asked us to furnish you these names and, since the question is very pressing at the moment because Mr. Minskoff and some of the involved counsel may have to leave Germany for a little while, we would like to have you designate Commissioner Hulroy to hear the three following witnesses this afternoon, if possible, if a room can be found: the defendant Affiants Taub, T a u b, Dion, D i o n, and Eisfeld, E i s f e l d. All have to do with Auschwitz. All are here and waiting to be examined.

THE PRESIDENT: The Tribunal now designates James G. Hulroy as the Commissioner under the appointment heretofore made to conduct the examination of the three witnesses just named on the record by the representative of the prosecution. I ask you, Mr. Prosecutor, to see that Mr. Hulroy is advised of this so that arrangements can be made to carry out the examination.

Just one moment; I think one of counsel want to speak to us.

DR. HOFFMANN: Mr. President, under the circumstances I could not ask that Mr. Ambros be excused for this commission meeting before but I ask that he be excused.

THE PRESIDENT: That request is granted.

Tr. Dix?

DR. DIX: Since there has been an interruption already, my colleague Boettcher has permitted me to bring up two very urgent matters which your Honors are awaiting. One of them is the list of objections before the Commissioner with the page in the record and the name of the witness, day, English record page, defense counsel and reason for objection. I shall hand that to the Secretary-General.

THE PRESIDENT: The Secretary-General will see that the Tribunal receives that promptly.

DR. DIX: The second matter is one of the recent rulings of the Tribunal ordered that a list of final pleas in their sequence be handed to Judge Merrill. I have that ready and I will hand that to you now.

THE PRESIDENT: Thank you.

You may continue now, Dr. Boettcher.

THE PRESIDENT: You may continue now, Dr. Boettcher.

DR. BOETTCHER: I had stopped with the presentation of Krauch's Exhibit 193. I now turn to Krauch Documents 143 and 135 which will become Krauch Exhibits 194 and 195. They deal with the Exhibit 1845 submitted by the prosecution during cross examination and they confirm that there was no concentration camp in Heydebrock.

The following document, No. 152, will become Exhibit 196. The affiant expresses his opinion of prosecution Exhibit 1982 which was put to Mr. Buetevisch during cross examination. This is a travel report of Dr. Sennewald, and he confirms that it was merely an orientation trip but that there was no possibility or mission for any interference by the Reich Office for Economic Expansion.

The two following documents, 148 and 144, will be given Exhibit numbers 197 and 198. They deal with the well known letter of Kirschner to General Thomas which was offered by the prosecution as Exhibit 473, Document Book XXII, English page 12.

Document No. 148 represents a statement by General Hienemann

as a witness and expert. He confirms the attitude expressed by Professor Krauch toward Exhibit No. 473. It is transcript page 5217 of the English transcript. This document will have Krauch exhibit number 197.

The next document is an affidavit by Otto Kirschner dated 21 October 1947 and also confirms the testimony made by Dr. Krauch in direct examination. He says that for humane reasons Krauch wanted to employ the Russian prisoners of war in an admissible and legal way. This document will have exhibit number 198.

Before I made a mistake and erroneously designated the two previous documents which the interpreter designated correctly. I repeat 148 will be 197 and 144 will be 198.

The following document, 121, will become Exhibit 199. It is a supplementation of Document Book VI, Exhibits 124 to 134. It is to confirm that Dr. Krauch particularly helped persecuted Jews and those married to Jews.

Documents 139 and 142 will become Exhibits 200 and 201. They show Dr. Krauch's international scientific importance. Exhibit 200 is a compilation of more than 30 inventions which were patented by Dr. Krauch. Exhibit 201 shows the interest which the War Department took in the scientific knowledge of Dr. Krauch at the beginning of 1947.

This concludes Document Book IX.

MR. SPRECHER: Mr. President, just so there is no misunderstanding with respect to Krauch Exhibit 201, I only wanted to say this. I just noticed it for the first time. The question concerning a letter which a subordinate who had been checking chemical leaders and in which the United States Army might be interested for some research work in the year 1947, we think unimportant unless it is to indicate a fact to which the prosecution will certainly stipulate -- namely, that Dr. Krauch was certainly a very capable chemist and that he had made many patents. If it goes to any other

point, then we will be required to go into the matter of the misunderstanding which produced this letter concerning which there certainly has been some correspondence.

THE PRESIDENT: The objection would appear to go more to the weight -- the objection of the prosecution would appear to go more to the weight of the document than to its competency. It will be admitted in evidence for what the Tribunal may consider it to be worth.

DR. BOETTCHER: Supplementing Document Book IX, I submit Supplement Book I to Document Book IX. I submit Document No. 39. It will become Exhibit 202. It is a supplementation to Document 141, an affidavit by the former Standard Oil president. This document was drawn up by Mr. Haslam, the present vice-president of Standard Oil, and it shows the loyal manner in which Farben implemented their exchange of experiences with their American partner Standard Oil. I draw the Tribunal's attention to the fact that Mr. Haslam attached an excerpt from the Petroleum Times, a periodical of 25 September 1943. He states expressly that the concept expressed in this article is still maintained by him today. He states that Standard Oil has received inventions from Farben important for the war.

The next document contained in that document book bears Krauch document number 75. I offer it as Krauch Exhibit 203. It is an affidavit by the engineer Kuhnt and deals with the question that the representative of the Gebechem in Brussels, Dr. von Schelling never used his own initiative to deliver workers to the Gestapo who violated their contracts with the firm.

The next document is Krauch No. 101 and it will receive Krauch Exhibit 204. It is a supplement to the testimony of the witness, Dr. Weber, English transcript page 11165.

Krauch Document No. 108 is now being distributed to the Tribunal in the English language. Copies are not yet available.

THE PRESIDENT: I think you mean to say Document 155, did you not?

DR. BOETTCHER: I am being informed that Document No. 108 is now in the office of the members of the Tribunal. One copy is being handed up to you now.

THE PRESIDENT: Very well.

DR. BOETTCHER: During the noon recess I shall hand to Mr. Spreche of the prosecution a copy of the document. This document will receive Krauch exhibit number 205. It is to refute the prosecution's Exhibit 2055

Its content is in connection with the documents 153, 127 and 75 just submitted.

Document No. 155 is before the Tribunal now in the English language. I ask you to accept it as Krauch Exhibit 206. It deals with Dr. Krauch's attitude toward the employment of concentration camp inmates which was ordered.

This concludes the presentation of documents on behalf of Dr. Krauch personally. I shall now turn to the documents dealing with the employment and treatment of prisoners of war. I hope that this document book is before the Tribunal. These documents are being presented on behalf of the entire defense. I shall briefly explain the organization of these documents. I gave them the designation "PW" which means prisoner of war in English. The exhibit numbers will be designated by me as defense exhibit numbers with the Tribunal's permission. They will start with Defense Exhibit No. 29. They follow the defense exhibits with respect to DaG and Degesch. I think I have to start with No. 28, though.

As PW Documents 1 and 2 I submitted a copy of Control Council Law No. 10 and a copy of the Geneva Convention which deal particularly with the question of the treatment of prisoners of war. In view of the Tribunal's position with respect to Dr. Siemer's presentation of documents on behalf of von Schnitzler, I shall forego the submission of these documents because they merely contain a repetition of legal provisions. I only included them in my book for the sake of completeness. I shall, therefore, not submit PW Documents 1 and 2.

I shall now start with the presentation of PW Document No. 3. This is an excerpt from the files of diplomatic conferences dealing with the treatment of prisoners of war. It met in Geneva in 1929. This is to be used in the final argument in order to interpret Article 31 of the Geneva Convention. I submit this document for identification as Defense Exhibit No. 28.

The subsequent three PW documents, 4, 5, and 6, are excerpts from

comments which were written in connection with the Geneva Convention. They are to be used for the interpretation of Article 3 in the final arguments. I offer these documents for identification as Exhibits 29, 30 and 31.

The following PW document, No. 7, is an excerpt from the so-called Brussels Declaration of 27 August 1874 to which the final pleas will also refer. It will become Defense Exhibit No. 32 for identification.

The following document, No. 8, I shall not submit in accordance with the new ruling by the Tribunal since it merely repeats the provisions of the Hague Rules of Land Warfare. I only included it for the sake of completeness.

In order of sequence I submit a number of documents to substantiate my arguments with respect to the legal situation in Germany.

PW Document 9 is an excerpt from the Reich Labor Gazette and it is a decree by the Reich Ministry of Labor with respect to the employment of prisoners of war. The decree shows clearly that such employment was carried out by order of the Wehrmacht and according to its directives. I draw particular attention of the Tribunal to the fact that the employment in building and construction work for Buna and hydrogenation plants was specifically declared to be admissible.

I offer this document as Defense Exhibit 33 for identification.

The following documents — PW-10 and PW-11 — are affidavits of two officers of the German Wehrmacht. They explain the practice employed by the Wehrmacht in the use of prisoners of war. They speak of the so-called Stalags and of the responsibilities of the chief of those Stalags. These documents will become Defense Exhibits 34, for PW-10, and 35, for PW Document No. 11.

The three following documents — 12 to 15 — can be explained by me at the same time. They deal with the employment of Russian prisoners of war. They show from what sources of the highest authorities the employment of prisoners of war was ordered.

I offer PW Document No. 12 as Defense Exhibit 36; PW Document 13 as Defense Exhibit 37; PW Document 14 as Defense Exhibit 38; PW Document No. 15 as Defense Exhibit 39. Documents 16 to 20 are regulations concerning the treatment of prisoners of war and the punishments which were imposed in Germany in connection with that matter.

Document PW-16 will be Defense Exhibit 40; Document PW-17 will be Defense Exhibit 41; Document PW-18, Defense Exhibit 42; Document PW-19 will be Defense Exhibit 43; Document PW-20 will be Defense Exhibit 44.

The next documents submitted under the heading "B" are to show that the interpretation of the international regulations with respect to the employment of prisoners of war was doubtful also in other counts. I should like to point out that I am not submitting these documents

under the point of view of "tu quoque", but I submit them in order to show that even in the affidavits, Documents 21 to 25 dealing with the employment of prisoners of war in the armament industry and the treatment shown in Documents 26, 27 and 28 may leave some doubts with respect to their treatment according to the Geneva Convention.

From this point of view I offer Document No. 21 as Defense Exhibit 45; Document 22 as Defense Exhibit 46; Document 23 as Defense Exhibit 47; Document 24 as Defense Exhibit 48, Document 25 as Defense Exhibit 49, Document 26 as Defense Exhibit 50; Document 27 as Defense Exhibit 51, and No. 28 as Defense Exhibit 52.

MR. SPRECHER: Mr. President, I haven't been able to see these documents, and as soon as we can go over them we will state our position. But I think it would be better if we could do it all at once rather than by short interjection.

THE PRESIDENT: Do not forget or put it off too long, Mr. Prosecutor.

DR. B OETICHER: This concludes the presentation of documents contained in that book.

I shall now turn to a new subject. I shall present three documents which are summarized under the heading "Documents of German Foreign Policy." They are to prove the lack of knowledge of the German people, and those defendants about Hitler's aggressive intentions.

The first two books, Your Honors, show only and exclusively what the official utterances of the German agencies were with respect to German foreign policy. The third book deals with statements in regard to the insufficient state of armament in Germany and represents an excerpt from two books which were submitted before the Krupp Tribunal. The Tribunal approved these documents, and of hundreds of documents I selected approximately twelve as a reasonable selection. In connection with Books 1 and 2 I might point out that a number of other Defense counsel have submitted documents which deal with the same subject matter. In particular I refer you particularly to Duerrfeld Exhibits 427, 429, 432 to 438, 4

441, 446, and, furthermore, to a number of documents which Dr. Siemers submitted in Book 1 of his documents for Dr. von Schnitzler. These documents I just mentioned refer to the so-called "Revisionism", that is, to the question of the recognition of those endeavors by Germany which intended to take from the Versailles Treaty those clauses in a peaceful manner, which were imposed on Germany with respect to armament.

In connection with these documents I submit only two documents dealing with the time prior to 1933. These documents I designate as "CK" documents, using the initials for the English words "common knowledge."

The exhibit numbers once more will be designated as Defense exhibits because these documents are being submitted on behalf of the entire Defense.

CK documents Nos. 1 and 2 show that the Reich Chancellor Bruening, already prior to 1933, demanded equality for Germany in the armament field, and that the so-called "Five Power Agreement" provided for the equality of Germany in this field.

Document CK-No. 1 will be Defense Exhibit 53, and CK-No. 2 will be Defense Exhibit 54. The subsequent documents are excerpts from Hitler's speeches and other official promulgations. All of them emphasize the peaceful intentions of the German Government. The selection which I made for the years 1933 until 1937 refers only to the most striking publications. I consciously avoided including too many of these publications in order not to burden the Defense material unduly.

Like a red thread, we find throughout all of these publications the constant assurances by Adolf Hitler, toward his own people as well as abroad, that he wanted nothing but a maintenance and a strengthening of the peace. These assurances begin with the first promulgation after the seizure of power on 1 February, 1933. It is CK Document No. 3, and it will become Defense Exhibit 55. These peaceful assurances are again repeated during the celebration on the 21st of March, 1933. An excerpt is being submitted from that speech as CK No. 4 and it will become

Defense Exhibit 56.

The proclamation by Adolf Hitler which is followed by his speech before the Reichstag on the 23rd of March, 1933, again contains similar statements in a very emphatic way. It says here:

"The safeguarding of peace is important by the big nations in order to maintain the confidence of the various peoples of the world towards each other. Ten years of peace will be more useful for the welfare of the nations than a thirty years' argument as to the concept of victor and vanquished." I submit this document as Defense Exhibit 57.

THE PRESIDENT: Did you have an announcement, counsel?

DR. KROEN (Counsel for defendant Kuehne): Mr. President, I ask that Dr. Kuehne be excused for this afternoon to prepare for his case.

THE PRESIDENT: The defendant Kuehne will be excused for the afternoon session.

It is time for lunch, Dr. Boettcher. The Tribunal will at this time rise.

(A recess was taken until 1330 hours, 4 May 1948.)

AFTERNOON SESSION

(The Tribunal reconvened at 1330 hours, 4 May 1948.)

THE MARSHAL: The Tribunal is again in session.

DR. SEIDL (Counsel for defendant Duerrfeld): Mr. President, the Prosecution this morning submitted Book 93, their rebuttal documents. We have to submit a memorandum with respect to these documents, and I shall do so in the course of tomorrow. However, I would like to mention a matter which has to be discussed now. This concerns an affidavit which originates from a certain Rossbach and which was submitted as Exhibit 2209. I looked at the original of this affidavit. The German copy bears the date of 21 January 1948. The original, that is, the photostatic copy, shows that there was originally a different date. It is shown that that affidavit was drawn up in 1947. This seems to me to be an important matter. I don't want to enlarge upon this matter here, and for that reason I shall withdraw the two affidavits which we submitted and which are in Books 14 and 15 of the Duerrfeld books.

The Prosecution Exhibit 2209, of course, has no connection with the exhibits which we submitted, but in spite of that I shall withdraw my exhibits in order to exclude any connection whatsoever.

I am referring to the affidavit which was submitted as Exhibit 143. The Document No. is 1120; it is in Book 14. The second affidavit of Rossbach is in Book 15, Exhibit 167, Document No. 11220, Duerrfeld.

THE PRESIDENT: Very well, counsel. Now, if there is to be any controversy about the date of the Prosecution Exhibit 2209, we would suggest that you gentlemen confer and see if you can agree upon what the facts are. And if you cannot, then please call it up so the Tribunal will know what the situation is and whether there is anything for us to determine.

Do you have anything to say now, Mr. Prosecutor?

MR. SPRECHER: No; on that point I will ask that Mr. Minskoff and Dr. Seidl get together.

THE PRESIDENT: Very well.

MR. SPRECHER: With respect to what our position is with respect to our affidavit from Rossbach with Dr. Seidl mentioned, I don't know because our calculations on the number of Duerrfeld affiants which we called was partly based upon the fact that certain ones of them particularly covered certain subjects we wanted to have. Now, if Dr. Duerrfeld has withdrawn a particular affiant to a certain topic, we may have to indicate that we desire cross-examination of a still different affiant. I think Your Honors will understand our situation there.

THE PRESIDENT: Well, advise yourself of it and see that the matter is put at rest with the Tribunal so we understand what your plans are.

You may continue, Dr. Boettcher.

DR. BOETTCHER (Counsel for defendant Krauch): May it please the Tribunal, before the noon recess I was presenting Document CK-5, which I offered in evidence as Defense Exhibit 57. On the 17th of May, 1933, already Adolf Hitler again indicated the madness of any new war. This is CK Document 6-A. The Reichstag speech by Hitler about the National Socialist peace policy of 17 May 1933 is Defense Exhibit 58.

The next CK Document 6-B, I offer as Defense Exhibit 59. It is a copy of the Agreement (Concordat) between the Holy See and the German Reich of 20 July, 1933. This, as it was noted at that time, is the first State pact which Hitler concluded with the head of a foreign state.

CK Document No. 7 is an excerpt from Adolf Hitler's broadcast on the occasion of Germany's departure from the League of Nations. This will become Defense Exhibit No. 60. I draw the Tribunal's attention in particular to the fact that Hitler again emphasized his love of peace on the occasion of this important foreign political step.

The following document, CK-No. 8 is offered as Defense Exhibit 61. It represents the statements which Hitler made at the beginning of the election fight. He again says, and I quote: "Our will is the will to have peace,

and we see no possibilities of a conflict."

Hardly three weeks afterwards Hitler again, in a very popular way, when making a speech before German workers of the Dynamowerk Siemens stad, spoke on equality and peace, according to CK Document No. 9, I quote:

"If, however, I want to give the German people again bread and work, if I want to put it back on its feet, I can only do this if it can live in peace and order. I should not be thought so insane as to want war."

This document will be Defense Exhibit 62.

We now turn to 1934, and the first document which I submit from this year with regard to foreign political matters represents the German-Polish Non-Aggression Pact. It is CK Document No. 10, which becomes Exhibit for the Defense No. 63. On the 30th of January, 1934, one year after the seizure of power by the National Socialist party, this endeavor for peace and friendship with all other nations is again being emphasized in a speech before the Reichstag. This excerpt is in CK Document No. 11 which will become Defense Exhibit No. 64.

The next document, CK-No. 12, is a memorandum of the Reich Government dealing with the disarmament question, of the 13th of March, 1934, which deals with the German Government's attitude toward the disarmament question. It shows its intentions which, in this connection too, are entirely peaceful. This document will become Defense Exhibit No. 65.

The next document, No. 13, is in connection with that subject matter. It is to become Defense Exhibit No. 66, and is Germany's proposal for an armament convention of 16 April, 1934.

CK-14 will become Defense Exhibit 67. It is a speech by the Reich Minister of Foreign Affairs, Freiherr von Neurath, on the occasion of the breakdown of disarmament negotiations. It is interesting to note in that document that it takes up the position to one matter which is frequently the subject of these proceedings. It deals with air-raid precautions. It

says, I quote: "Can a power" — they referred to France— which has the mightiest air armament of the world be seriously and genuinely alarmed about the fact that Germany has authorized fifty million Reichsmark in their budget in order to protect its population from air-raid attacks, by means of special installation?

I quote again:

"The Reich Government showed its unconditional desire for Peace not only in the promulgation of its political program, but actually also proved it by its deeds.

In 1934, Adolf Hitler again speaks in that connection. CK Document No. 15 is an excerpt from his speech at the Gau Party Rally of the NSDAP at Gern. This will become Defense Exhibit No. 68.

Concluding 1934, is the CK Document No. 16. This is a speech of the Fuehrer's Deputy, Rudolf Hess, dealing with German-French mutual understanding. This document CK-16 will become Defense Exhibit 69. These were the most striking statements which are selected from the year 1934.

1935, as it is known, brought about the restitution of German Military strength. This is the reinstitution of conscription for military service in Germany, which is substantiated on the 16th of March, 1935. It is important to note that it was motivated only from the point of view of National Defense. This CK Document No. 17, will become Defense Exhibit No. 70.

I shall only quote two very brief sentences:

"In this hour, the German government before the German people and the entire world, renews its assurance of its determination never to proceed beyond the safeguarding of German honor and the freedom of the Reich. In particular by rearming Germany, we do not intend to create an instrument for warlike aggression, but on the contrary, we exclusively want to create an instrument of defense and thereby maintain peace."

CK Document No. 18 will become Defense Exhibit No. 71. It contains the official communique dealing with the visit of the British foreign secretary, Sir John Simon and Minister Eden, in Berlin, on the 26th of March, 1935.

This communique too emphasizes the peaceful aims which were pursued by both Governments. I particularly draw the attention of the

Tribunal to the fact that this visit took place immediately after the promulgation of the German military forces, contrary to the provisions of the Versailles Treaty.

The conclusions which were drawn by public opinion in Germany from this fact will be discussed in the final arguments. Two months later, on the 21st of May, 1935, Hitler again speaks on Germany's peaceful policy before the Reichstag. This is CK Document No. 19 which I offer as Defense Exhibit No. 72.

The next documents, CK 20, and CK 21, which I offer as Defense Exhibits 73 and 74, deal with the German-British Naval Agreement, and Germany's renunciation of the unrestricted U-Boat warfare.

This German-British Naval Agreement is important in this connection because it can only be understood if one considers that it means that Germany's desire for lifting the restriction of the Versailles Treaty is recognized by one of the parties who were co-signatories to the Treaty.

The following document, CK 22, will become Defense Exhibit No. 75. It is a speech of the then Reich Minister of Economics, Dr. Schacht, of December, 1935, about the economic situation of Germany and about the necessity for the maintenance of peace for further economic development.

CK document No. 23 brings us to 1936. It contains typical utterances by Adolf Hitler with regard to the sincerity of his love for peace. He replies to a French Journalist, and I quote:

"I know what you think. You mean that Hitler makes declarations of peace but is he really sincere? ... Isn't it logical that I strive for the most advantageous course for my country, and isn't that Peace?" Then he is being asked what his position is on the foreign political aims of the book "Mein Kampf", which were the subject of discussions here on various occasions. He replies, "When I wrote that book, I was in prison... You want me to make corrections in my book as a writer would do who is publishing a new edition of his work? I am no author. I am a

politician. My corrections will be made by my foreign policy which is directed toward an understanding between Germany and France."

This document will become Exhibit No. 76.

The next document, No. 24, is the memorandum of the Reich government of 7 March, 1936, to the signatories of the Locarno Pact. It contains the cancellation of that Pact and gives the reasons for the march into the demilitarized zone. I quote:

"This step had a purely defensive character".

I offer this document as Exhibit 77.

The following document, No. 25, will be Defense Exhibit 78. It is a Fuehrer speech on the occasion of the march into the Rhineland, and constitutes a popular variation of this eternal subject, the pursuance of peaceful aims.

Document No. 26, is Defense Exhibit 79. This is a proper plan for peace by the Reich Government. The plan extends to not less than 12 printed pages, and as from page 97 of the Document Book, contains a 19 paragraphs outlining what the safeguarding of peace would be in the opinion of the German government, and not only of European peace but of World peace. This statement concludes with the following quotation:

"The German Reich Government confidently believes by submitting the above Peace Plan to have paved the way for the building up of a new Europe".

In the next document, Number 27, Reich Minister Dr. Goebbels makes an appeal on the occasion of the 1st of May 1936, the National Holiday of the German people. He speaks of Germany as of a bastion of peace. That document will be Defense Exhibit 80. The same subject is dealt with in the address of the Fuehrer on the occasion of the Reich Party Rally on the 9th day of September, 1936. This proclamation is OK Document No. 28, Defense Exhibit 81. Particularly important is the passage which describes the 4-Year Plan. I quote:

"It is therefore the task of the National Socialist state and

economic leadership to investigate carefully what necessary raw materials, fuel etc., can be produced in Germany. The foreign exchange saved in that manner are to be used in the future as an additional safeguard of our food supply, and for the purchase of raw materials which under no circumstances can be produced by ourselves.

And I am proclaiming this today as the new 4-Year Plan: Within 4 years Germany must be independent from abroad with respect to all of those raw materials which in any way, through German skill, through our chemistry, through our machine industry or through mining can be produced by Germany itself. The German people however has no other wish than to live in peace and friendship with all those who want peace and who do not interfere with us in our own country."

Document No. 29 is Defense Exhibit No. 82. This is the Treaty between the Reich Government and the Imperial Japanese Government, for the common defense measures against the Communist International, the "Anti-Comintern Pact" of 25 November, 1936. This Treaty starts the Anti-Communist propaganda by the third Reich against the Soviet Republic which continually increased from August 1939.

The next CK document No. 30, which will become Defense Exhibit No. 83, is a speech by the Ambassador von Ribbentrop, about Germany's equal rights regarding the Colonies, made in London in December, 1936. The assurance is given that "Germany strives for this equality with peaceful means."

There now follows a selection of Documents from the year of 1937. At first we have CK document No. 31 which will become CK Exhibit 84. It is a speech by the Fuehrer's Deputy Rudolf Hess, about the nature and activities of the NSDAP, before officers of the Wehrmacht.

The old proverb is being used in that speech, "If you want peace, prepare for war." It is pointed out how a high degree of armament can be important for the prevention of war. The subsequent document, No. 32, will become Defense Exhibit 85. Hitler, on the 30th of January, 1937, the 4th Anniversary of the National Socialist Revolution, once more discusses the basic thought of the 4-Year Plan. I shall quote two sentences, very briefly, in that connection:

"This direction of our economy according to a plan finds its mightiest expression in the program of the 4-Year Plan. By this means permanent employment in the internal cycle of our economy is guaranteed for the masses of German workers who will one day return from the armaments industry." —

"The aim of all of this work will be to make the German people healthier and its life more pleasant... For the execution of these plans", I may add that Hitler also talked of other plans for the expansion of the large cities, etc." a period of 20 years is provided.

"May the Almighty grant us peace, during which the gigantic task may be completed."

CK Document No. 33 will become Defense Exhibit 86. It is the Fuehrer's statement about his recognition of the inviolability and the neutrality of Switzerland. I am turning to CK Document No. 34, which will become Defense Exhibit 87. It is a public announcement of Reich Foreign Minister Freiherr von Neurath on his visit to Belgrade, Sofia and Budapest in June, 1937. These statements emphasize that these conferences took place under the idea of a safeguarding of the European peace.

CK Document No. 35 will be Exhibit 88. It is the German-French Economic Agreement, the aim of which is peace between the two nations.

CL Document No. 36 will be Defense Exhibit 89. This is an excerpt from Adolph Hitler's speech on the occasion of the Harvest Thanksgiving Festival on October 3, 1937. As on other occasions, it is emphasized here that it is all important to ward off any Bolshevik attacks.

The next document, CK No. 37, introduced as Defense Exhibit No. 90, is in connection with Document No. 33. It guarantees the inviolability of Belgium.

The following document No. 38, which is to be Exhibit 91, is an affidavit of the Reich Foreign Minister Neurath about the significance of the German Italian friendship, the value of which is seen in the maintenance of European peace.

The last document of this volume No. 40, is in connection with Document No. 39. It contains Adolph Hitler's declaration to Polish representatives of minorities. He again declares that he would safeguard peace on the Polish-German frontier. This will become Exhibit No. 93.

This concludes the first volume on German Foreign Policy.

I shall now submit a number of CK documents, which deal with 1938 and 1939. They are all in connection with the Austrian and Czech question. These documents emphasize that the official German agencies thought it particularly important to create the impression among the population that the steps against Austria and Czechoslovakia were legal.

The first seven documents, 41 up to 47, inclusive, deal with the situation in January 1938, and the negotiations between the last Austrian government and Adolph Hitler; decisive for the impressions that these negotiations made on German public opinion was the telegram of the Austrian Minister of Interior, Dr. Seyss-Inquart which is Document No. 46. This telegram shows that the Austrian Government asks for the assistance of the German government in order to maintain order in Austria.

I am submitting these documents in their sequence as follows:

Document 41 will become Defense Exhibit 94;

Document 42 will become Defense Exhibit 95;

Document 43 will become Defense Exhibit 96;

Document 44 will become Defense Exhibit 97;

Document 45 will become Defense Exhibit 98;

Document 46 will become Defense Exhibit 99;

Document 47 will become Defense Exhibit 100;

The three following Documents, 48, 49a and 49b, show the trends of thought prompting the march into Austria as it was presented to the German people. 49B shows the enthusiastic welcome the Austrian population gave the German troops. These documents will receive the following Defense Exhibit numbers: 48 will be 100; 49a will be 102 and 49b will be 103.

Document 50 and 51 contain the transfer of the Austrian Government authority to the German Government, and it is shown that there was an Austrian Constitutional Law legalizing this Union.

Document 50 will become Exhibit 104, and CK 51 will become Defense Exhibit 105.

CK Document No. 52 is Hitler's conversation with the well-known Journalist Ward Price, in Lyons on 13 March, 1938. Hitler once more emphasized there the legality of his step. He states that Austria's union with the German Reich was in accordance with an ardent and historical wish of the Austrian population.

This document will become Defense Exhibit No. 106.

Document No. 53 is the Fuehrer's speech before the German Reichstag on 18 March, 1938. This document will become Defense Exhibit 107. The following documents, 54 and 55, were already the subject of discussion during these proceedings, when the Envoy Dr. Paul Otto Schmidt was here as a witness on the 2nd of October, 1947, English transcript page 1541. I know that these two documents which contain the solemn declaration of the Austrian Bishops on the occasion of the Plebiscite in Austria were rejected at the time. However, I do offer them again for the following reasons: in my opinion they are important with respect to the knowledge of the German people as to the legality of Adolph Hitler's step in regard to Austria.

This solemn declaration of the Bishops was used with special emphasis

by National Socialist Propaganda in Germany. It is quite obvious that the declaration of the high Austrian clergy, in view of the importance which the Catholic Church not only enjoyed among Catholics, but also among the Protestant circles of Germany, would be suitable to characterize the steps in Austria as being legal and desirable.

I offer these documents as Defense Exhibits 108 for document 54 and 109 for document 55.

MR. SPRECHER: Mr. President, in the interest of time, at least at this time, we will not make an objection to a number of these documents which we think are in the nature of attempting to show justification for aggression.

THE PRESIDENT: They might be so construed, but Mr. Prosecutor, might they also be competent not upon knowledge of the Nazi plans, so far as these defendants are concerned? We understand that Dr. Bootcher is offering them to show there is nothing about expressed and declared and open Nazi policies to lead these defendants into believing that there was a Plan for an aggressive war. He so stated, and it seems to be competent on that score.

MR. SPRECHER: I was referring, Mr. President, to some of the documents which refer to the period after the aggressive act has been performed, and I was saying that in the interest of time we will not make a present objection, although we may come back to these documents, as well as some of those this morning, in a special motion.

THE PRESIDENT: Very well, you have a right to do that, but let me say for the Tribunal, that as we approach the end of the Trial, we would regret to see any great accumulation of reserved objections; where you can do it, we would much prefer that you make your objection at the time, and we can pass on it, and have it behind us, because there is danger that we are going to have a large accumulation accumulation of reserved objections

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and exceptions here that will more or less bog us down in the last hours of the trial. That is no mandate at all, but where you can do it, we would rather you do it than easily postpone it and take it up later.

MR. SPRECHER: Well, Mr. President, the reason I just mentioned it now is because if we don't object at least you will know our position in a general way with respect to our feelings concerning the weight.

DR. BOETTCHER: I now turn to documents dealing with the Sudeten-German question. The CK Documents 56 up to 58 show the atmosphere in which the Sudeten-German question was presented to the German people. The clashes between Czechs and Germans and the oppression to which the Sudeten-Germans were subject are being described in these documents. CK Document 56 will become Document 110, CK Document 57 will become Exhibit Number 111 and CK Document Number 58 will become Defense Exhibit Number 112.

The next document, CK Document 59 is a telegram by Adolf Hitler to the President of the United States, Roosevelt. In this telegram Hitler sums up his opinion on the Sudeten-German question from the point of view of legality and from the point of view of his endeavors for the maintenance of the European peace. This document will become Defense Exhibit Number 113. CK Document Number 60 represents the so-called Munich Agreement. It will become Defense Exhibit Number 114.

Documents 61 and 62 are the so-called peace declarations by Germany and Great Britain on the one hand and Germany and France on the other, in connection with the Munich Agreement. Document Number 61 will bear number 115; Document Number 62 will bear Defense Exhibit Number 116.

I now turn to a number of documents of the year 1939. Document Number 63 is a statement on the relations to Hungary. Document Number 64 is a declaration with respect to the relations to Poland. These two documents will become Exhibits 117 and 118 respectively.

The last document is significant because it is in connection with Ribbentrop's visit to Warsaw on the fifth anniversary of the German-Polish agreement. The atmosphere is still perfectly peaceful. The same assurance is being given by Adolf Hitler on the occasion of his speech on 30 January 1939, the sixth anniversary of the National Socialist revolution. I shall only quote a brief sentence: "Germany is happy

today to have pacified frontiers on the west, south and north".

"Germany wants peace and friendship with all countries including the United States of America. I offer this document as Defense Exhibit Number 119.

Documents 66 and 67 are extensions of the so-called "Anti-Comintern Pact" by Hungary's and Manchukuo's membership. They will become Exhibits 120 and 121.

Document 68 starts the action against the protectorate. In that document a terror wave by the Czechs against the Germans is reported. This document 68 will become Defense Exhibit 122.

Documents 69, 70 and 71 deal with the creation of the protectorate. The purpose of these documents is to show to the German people and to the entire world the legality of the German steps. Document 69 will become Exhibit Number 123, Document Number 70 will become Exhibit 124 and Document Number 71 will become Defense Exhibit 125.

Document Number 72 contains an economic agreement between Germany and Roumania in order to pacify the Balkans. I offer it as Exhibit 126.

The following document Number 73, shows the extension of the Anti-Comintern Pact to Spain. It is offered as Defense Exhibit Number 127.

Document Number 74 shows the tension between Germany and Poland which had arisen from Great Britain's guarantee for the independence of the Polish state. The German government states that this agreement is in contradiction with the Polish-German peace agreement of 26 January 1934. This document I offer into evidence as Defense Exhibit 128.

The following document, Number 75, is an official German communique on the occasion of the state visit of Count Teleki, the Hungarian Prime Minister, describing this visit as a contribution to the maintenance of peace. It will become Exhibit Number 129.

Dealing with similar subjects are Documents 76 up to 81, which again show the peaceful relations and the endeavors in the interests of the maintenance of peace.

These deal with pacts with Italy, Denmark, Yugoslavia, Estonia and

Latvia. Document 76 will become Defense Exhibit 130; D. 77, E. 131; D. 78, E. 132; D. 79, E. 133; D. 80, E. 134; and D. 81, E. 135. Document 82 is the non aggression pact between Germany and Soviet Russia of 23 August 1939 which created a great sensation at the time. It will become Exhibit Number 136.

Document Number 83 is the headlines of the Volkischer Beobachter of the last August days of 1939. All these headlines had the propagandistic purpose of suggesting to and informing the German people that it was not Germany but Poland who was the aggressor. This document will become Defense Exhibit 137.

Offered for the same purpose are the three following documents, 84, 85a and 85b. Their propagandistic aim is to divert the attention of the German people from the aggressive war which was planned during the secret meetings. They are intended to make the aggression against Poland appear as a defense against Polish aggression. 84 will become 138, 85a will become 139 and 85b will become 140.

The third but last document, Number 86 will become Defense Exhibit 141. That is the Fuehrer's well-known communication to Prime Minister Daladier. Hitler represents his policy towards Poland as being absolutely legal.

OK Document 87 I shall introduce as Defense Exhibit 142. These are the propositions for a peaceful settlement of the Danzig Corridor problem as well as the German-Polish question of minorities.

OK Document Number 88 will be introduced as Defense Exhibit 143. It is the Fuehrer's speech before the German Reichstag at the beginning of the German-Polish dispute. It shows that only a defense against Polish aggression is being intended.

The last four documents of this book are shown in order to prove that the rearmament of Germany was carried out quite publicly, OK Document 89 deals with the private visit to Berlin of Colonel Lindbergh's the American transatlantic flier and describes his official reception by Goering. This document will become Defense Exhibit 144. Documents 90,

and 91 concern the visit of General Vuillemin, the chief of staff of the French airforces and also the visit by officers of the British Royal Air Force. 90 will become 145, 91 will become 146.

I shall now turn to the last document, Number 92, which is offered to prove that the United States of America, de facto, recognized the annexation of Austria to the German Reich. This document, Number 92, will receive Defense Exhibit Number 147. This concludes the second volume of documents with regard to German foreign policy.

Before submitting the third book, your Honors, which contains utterances by German high military leaders I would like to examine the witness Fritzsche, if that pleases the Tribunal.

THE PRESIDENT: The Marshal may bring in the witness. Witness, will you please remain standing for the purpose of being sworn, raise your right hand, say "I", and state your name for the record.

THE WITNESS: I, Hans Fritsche --

THE PRESIDENT: Now repeat after me the oath -- swear by God the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing. You may be seated.

DIRECT EXAMINATION

BY DR. BOETTCHER:

Q. Witness, for the record would you please state your present residence.

A. At present I am residing in the prison of the Palace of Justice. That is I am made to reside there. Otherwise I am a prisoner in the Regensburg Camp.

Q. Witness, you were indicted before the International Military Tribunal as a major war criminal.

A. Yes.

Q. What was the sentence?

A. I was acquitted on all counts under which I am indicted.

Q. Would you be kind enough to describe to the Tribunal what positions, official positions, you held from 1933 until 1945?

A. In 1933 I remained what I had been before that time -- namely chief editor of the German Broadcasting News Service -- the so-called Wireless Service. I retained in this position until about 1938. From December 1938 until March or April 1942 I was head of the department German Press in the press department of the Reich government in

the Propaganda Ministry. Then I was a soldier on the Eastern front. Then, in December 1942 I became head of the Broadcasting Department of the Propaganda Ministry and I remained that until 1945.

Q. Thank you very much. Was the German people prepared by the press and radio for the possibility or probability of a future war, before the outbreak of the last war? In your position, after all, you exerted some influence in this respect.

A. Yes. The possibility of war was pointed out. But it was always pointed out in this connection, that if war came it would only be an attack on Germany.

Q. From your knowledge of the situation can you tell us how this danger of aggression to Germany was substantiated?

A. It was explained above all by the fact of the one-sided disarmament. It was pointed out that existence of a state which was completely disarmed among highly armed countries was a temptation to attack. Therefore, in the first years after 1933, it was demanded at first that the other states also disarm and then it was demanded that armaments be equalized.

Q. Did the German propaganda emphasize the German will for peace in that connection?

A. The possibility of war was mentioned --- not a single time, to my recollection -- without its being pointed out simultaneously that Germany did not want war.

Q. Could you perhaps very briefly, from your knowledge of the situation, explain in a little more detail this emphasis of the will for peace.

A. Of innumerable examples that could be cited, I shall mention only one which was specially convincing to me

and probably also to millions of Germans. It was Hitler's assurance that he had been a simple soldier in the first World War. He knew what war meant. Therefore he would always try to prevent war. This argument had an especially convincing effect on the mass of the German people, simply because no one can experience the realities of war without becoming an opponent of war.

Q. Witness, you stated that from an abundance of examples you would only give one. Could you perhaps briefly give us a second?

A. Hitler said that in all the bloody fighting of the last thousand years in Europe, even the victor at the time had never won as much as he had previously been forced to sacrifice during the war.

Q. Witness, since you officially repeated these ideas, did you actually believe in the sincerity and honesty of Hitler's declarations of peace?

A. I certainly believed in them firmly and as I said I had a thousand reasons for doing so.

Q. Would you be good enough to cite a few reasons for your convictions?

A. I remember the time of the war threat in the summer of 1939. During this time I wrote a number of memoranda on the political situation from my field of work, that is the news service. I summed up on only two pages opinions from the Western countries and I put them next to each other. For example, an English opinion on the Austrian incident and a statement from the same source on the Sudetenland. One on the case of Bohemia and Moravia, one on the case of Poland. I concluded therefrom, and this was the automatic result of the material, that in the event of a

conflict with Poland, England, for example, was determined to wage war in the defense of Poland, no matter what the temporary legal position might be at the moment of the conflict. Dr. Goebbels, to whom I presented these memoranda, was very much interested in the contents. I remember one case, I believe that was in July 1939, when I gave him one of these short memoranda which was especially impressive. After he had read it through, he said to me in great excitement: "Mr. Fritzsche, you may be assured we have not worked for six years and worked so successfully just to risk everything in a war. I will fly to see Hitler tomorrow with your report." He did so.

Q. Witness, that was your personal attitude. As a result of your position, did you learn of facts from which you deduced that the German people, too, up to the outbreak of the war, were convinced of the sincerity of Hitler's assurances of peace?

A. As far as my observations went, and as far as I was able to draw my conclusions, I was and I am today firmly convinced that the German people, at that time, like myself, overwhelmingly believed Hitler's assurances of peace. Insofar as Hitler acted differently from what he put down in these assurances of peace, he deceived the German people.

Q. Did you get regular reports on the public opinion in Germany?

A. I was an old journalist by profession, and, of course, I had numerous sources from which I was able to ascertain public opinion. Aside from the rather extensive private information service, so to speak, about public opinion, I also received regular reports - I believe it was called "Lagebericht" situation report - which was compiled according to the methods of the Gallup Institute by one agency attached to the RSHA, the Reich Security Main Office. These reports, too, indicated what I myself had learned from my own sources of information, namely that the German people believed in Hitler's assurances of peace. I may add, if the German people had not believed Hitler's assurances of peace at that time then they would have refused to follow him. That is my conviction.

Q. Witness, could you briefly give us some of the considerations which prompted the German people to believe in Hitler's assurances of peace.

A. It was like a cancer in the German policy, in the period after the first World War, the refusal to give up the territory lost in the Versailles Treaty. Even politicians who had outwardly declared themselves willing to fulfill all the provisions of the dictate of Versailles had inner reservations and at least hoped for a perhaps peaceful return of the territory lost at Versailles. Hitler was the first man in Germany who dared and was able to dare to guarantee the borders drawn at Versailles. He was able to do that because of his great popularity and it could not be seen then that he intended to break these guarantees. Moreover, the German people saw that other countries recognized Hitler. It is not fashionable today to speak of that, but it is a fact that for a German, looking at things from Germany, never since the end of the first World War, had a German government had such great success as the Hitler government. I may remind you of the demonstrations of other countries at the Olympic Games. I may remind you of the German-British Naval Agreement, the first agreement clearly breaking one of the disarmament terms of the Versailles Treaty. I may remind you of the Munich Agreement

about the Sudetenland and other things.

Q. Thank you very much.

Witness in the later years, and I am particularly thinking of 1939, was it known in Germany that foreign countries were doubting Hitler's love of peace?

A. Of course that was known. May I add something? Before the outbreak of war, listening to foreign radio stations was not prohibited in Germany. Besides, almost all foreign newspapers could be bought in Germany. Only a very few German language foreign papers were banned which had achieved a mass distribution in Germany. Otherwise, every paper in the world was available in Germany and Germany participated fully in the world-wide discussion on the question, "Is Hitler's will for peace sincere or not?"

Q. What was the German peoples' reaction to the various doubts which arose from news from foreign countries?

A. In Germany there was an enormous stock of faith in Hitler. In the eyes of the Germans, Hitler had earned that faith by unparalleled constructive work. And in my constant dealing with this question in the course of my work, I observed again and again that he who did not believe in Hitler usually had a priori or some other source of resentment against Hitler by reason of which he refused to have faith in him.

Q. Witness, another question. Could you perhaps tell us what the Germans' reaction was when the war started on the 1st of September 1939?

A. The German people were deeply shocked at the outbreak of war, with real abhorrence, I might say. There was no trace of enthusiasm for war such as in 1914 perhaps. I may compare the two events because I remembered the outbreak of the first World War.

Q. Are you referring your description of this impression to the broad masses only, or also to the leading circles of the intelligentsia, the civil servants and industry?

A. Perhaps I have talked to more people in Germany than many others

have. I did not discover a single German who was happy at the outbreak of war. I merely found differences in the degree of consternation.

Q. And now a third subject matter, witness. Can you tell me whether from your knowledge of the situation, the German people were informed of the atrocities in the concentration camps?

A. I am firmly convinced that the German people, at least the overwhelming majority of the German peoples, did not know of these atrocities. There are many people today who say that they always know about it. I have talked to many such people. I have learned that at one time most of them judged differently. They heard the rumors which most of the German people heard. There were rumors which were sent to Germany in the foreign broadcasts during the war too. The news which came to Germany through the foreign radio I know almost without exception because I had them on my desk every day. Each new assertion that came up in this field I tried to have investigated and I received denials, denials which did not simply superficially deny everything but which went into details, which said, for instance, "this is completely false", "This is an invention", "that has a core of truth", etc. I personally gained the conviction, on the basis of these reports, that the news of atrocities coming from abroad was untrue. According to my knowledge today it has turned out that atrocities occurred in concentration camps primarily in the very beginning, in 1933; that they were stopped very soon and later again, toward the end of the war, there, it is true, they reached gigantic dimensions. According to my knowledge today, I am convinced that there was a regular organization which kept this news from spreading out of the concentration camps to the public.

Q. One last question, witness.

Did you and the German people know of the mass murder of Jews?

A. I did not know of this mass murder. I am firmly convinced that the German people did not know of it. What I have just said about the atrocities in concentration camps applies to this terrible fact too. Foreign news sources during the war gave figures of murders of Jews. Those figures

were presented to me every day and, as a man who believes that he was thorough in his job, I did not believe these figures. The reasons for this are the following. Of about one hundred foreign reports on events in Germany, I was able to check eighty to ninety on an average myself. These were reports, for example, about strikes in Bochum, about unrest in Dortmund, about other incidents. For example, the arrest — that's one piece of news that just happens to occur to me — of ten thousand Czechs in the first days of the war, including the Mayor of Prague. We sent German and foreign journalists to Prague and they interviewed the Mayor who was supposed to have been arrested. To sum up: Eighty per cent of these reports I was able to investigate and prove beyond any doubt that they were untrue. There remained twenty per cent of the so-called atrocity reports. In these cases I was forced to rely on official denials. I approached the RSHA (Reich Security Main Office) the Ministry of the Interior, the Prussian Prime Minister, the OKW, etc. If four-fifths of the foreign reports about Germany could be proved to be false, why should I assume, contrary to official reports and statements, that this one-fifth were true. Today I cannot suppress a deep regret that the Allied radio, if it was really in possession of these facts, did not succeed during the war in making its reports more credible. I, of course, was predisposed to disbelieve this news and whenever such an atrocity report came in I thought of the example of the story in the first World War where child en's hands were supposed to have been chopped off, a fairy story which was later proved to have been invented, and very often on the German radio I referred to this story of the chopped-off children's hands to point out how improbable the atrocity reports of the second World War were.

DR. BENTCHER: Thank you very much, witness.

Your Honor, I have concluded my examination.

THE PRESIDENT: The Tribunal will rise for its recess.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

DR. BOETTCHER: Your Honors, I have been asked, although I have concluded my examination, to put three brief questions on behalf of a colleague of mine who is unable to do so.

THE PRESIDENT: Very well, Doctor.

DIRECT EXAMINATION
(Continued)

BY DR. BOETTCHER:

Q. Mr. Fritzsche, before 1933 were you also dealing with political questions?

A. Yes, I had been a journalist, a political journalist, for a decade before that.

Q. Do you know that prior to 1933 the representatives of the Social Democratic and Communist Party made statements to the effect that a seizure of power by Hitler would mean war?

A. I am aware of that but I am also aware that the slogan of the National Socialists was: "Seizure of power by the Communists means civil war."

Q. Is it your view that on the 5th of March 1933, on the occasion of the First Reichstag election, after the seizure of power, Hitler would have obtained the large majority of votes if the German people had at that time believed the statements by the Social Democratic and Communist Party, that Hitler's seizure of power would actually mean war?

A. If the German people had known that Hitler was going to wage war, he would not have received these votes. I am convinced he would not have received a single vote because no sensible person chooses cholera nor would a

sensible person vote for war.

DR. BOETTCHER: Thank you very much.

BY DR. HOFFMANN (Counsel for defendants Ambros and von der Heyde):

Q. Mr. Fritzsche, you mentioned that you received reports on atrocities in concentration camps. Did you investigate these reports and to what extent did you do this and at what did you arrive? Can you remember any incidents of that kind?

A. I remember them very well. I distinguish between two groups of reports about atrocities in the concentration camps. The first group came to my attention in 1933. These reports came in part only from foreign sources. The rest came from Germans. I learned that these reports were correct. The three authorities whom I approached also told me that these things would be stopped. These three agencies were: Dr. Goebbels, my own superior, the Reich Minister of Interior Frick, the Prussian Prime Minister Goering; and later I learned of trials against the perpetrators of these atrocities. Then nothing happened for many years.

During the war I received the next group of reports on concentration camp atrocities. Here I relied on denials of the RSHA which had been founded in the meantime. In addition to that, as is the duty of a journalist, I tried to get news on my own:

(a) I asked people who had inspected concentration camps for information. I did not know at that time what I know today, that no inspection of any penal institution can give a true picture to the visitor. I received such a report from Sturmbannfuhrer Radtke, Gerhard Radtke, who had inspected four or five concentration camps in

1942, if I am not mistaken. He described to me that they were in good condition. He merely reported of one camp where additional disciplinary punishments were inflicted in the form of hard labor. There was no question of murder or the horrible concept of annihilation by work. He knew nothing about these two things or at least he denied that these things existed.

(b) I attempted to speak to people who had themselves been inmates of concentration camps. I came in close contact with a soldier named Reintge who for six months in 1942 was together with me. We were together constantly and I am sure that he spoke openly and honestly. He described his experiences in the camps where he had been from 1933 until 1941. He told me that he had been beaten in 1933. He also told me that after that he had been treated humanely and decently.

(c) I inquired of prominent persons who I knew had been in concentration camps -- for example, the adjutant of Hess, by the name of Leitgen, or the former Austrian chancellor Schuschnigg. I was told that Schuschnigg had been permitted to marry in a concentration camp and to live with his wife; or, to give only one of many examples, I inquired about Pastor Niemöller and I learned not only from official sources but from Niemöller's friends that he had been given special quarters and that he was allowed to receive visitors and that he was able to work, do mental work.

Q. Did you ever visit a concentration camp yourself?

A. I was frequently invited to do so but I never accepted the invitation because I realized that I would merely be shown Potemkin Village. However, I lost no

opportunity to talk to concentration camp inmates when I found them at work. I conducted dozens of such conversations. At first I was met with great suspicion which is understandable. A few sensible words overcame this suspicion and I then regularly heard the complaints: "We were unjustly arrested." Beyond that, however, I heard the assurance: "The food is not bad. The housing is quite decent; it is tolerable, at least", and some of them said: "Well, at least we aren't in the Army".

Q. Mr. Fritzsche, you said you didn't visit a concentration camp because it was your view that a wrong impression would be created. Wh ereupon do you base that?

A. When I was a very young journalist, I inspected the prison of Berlin-Tegel on one occasion and I had the impression then that the person who visits a prison sees nothing but the bare walls. He learns nothing of the life there.

Q. Another question: you were speaking of the knowledge of the broad masses of the German people. Would you make a distinction within the broad masses of the German people, between members of an organization declared to be criminal, such as the SS, and those who were not members. I shall confine myself presently to the broad masses and when speaking of the SS, I am not talking of the leading personalities and those immediately connected with concentration camps.

A. This distinction between the broad masses of the German population and the mass of the SS cannot be drawn. Even according to what I know today, I can make only the distinction which you have just indicated -- that is, the distinction between the broad masses of the German people, including the mass of SS members on the one hand, and those who participated in the crimes, a rather small number, on the other hand.
BY DR. RUDOLF DIX (Counsel for defendant Schnitz.)

Q. Mr. Fritzsche, during your examination by attorney, Dr. Boettcher, you spoke about the attitude of the German people, of various German population categories, toward Hitler's will for peace. As a consequence of his will for peace, you discussed the shock experienced by the German population on the occasion of the outbreak of the war. Did you speak to leading men of German industry in that sense?

A. I certainly must have done that, but I cannot give you any names at the moment and it would require a certain amount of reflection to be able to mention any names.

DR. DIX: Thank you; that will suffice.

THE PRESIDENT: Anything further from defense counsel? Then the prosecution may cross examine the witness.

CROSS EXAMINATION

BY MR. SPEECHER.

Q. Dr. Fritzsche, did you personally believe the foreign press reports concerning the destruction of the Czechoslovakian city of Lidice?

A. I did not read any foreign press reports of the destruction of Lidice but, because I was at the front in the East at this time, I read

the German newspaper reports about the penal action at Lidice.

Q. Did you know at that time that the women of Lidice were sent to concentration camps?

A. No, I did not know that. That was not reported.

Q. Did you later, when you came back from the Russian front, at the end of 1942, conduct any reports as to what the foreign press had said about Lidice during your absence?

A. I did not make such reports.

Q. Now, you're certainly familiar with "Das Archiv" which I think was mentioned in your trial, as a matter of fact. Did you know that "Das Archiv" reported at the time that the women of Lidice were being sent to concentration camps and that the children were being appropriately dispersed among German families?

A. I did not know that at the time and I did not know it until now.

Q. You did know that the men of Lidice had been killed, according to the German press reports themselves to the last man?

A. No, I did not know that. I heard the reports about the destruction of Lidice. I probably did not get a newspaper. These reports alone gave rise to an opinion on this event which I have expressed once before in this room. This opinion was: "It is a small success of the Czech Legionnaires brought to Czechoslovakia by the British that they were able to murder Heydrich. It is a big success for British propaganda and policy that the Germans were so foolish as to destroy a town in revenge."

Q. Now at the time of the economic laws, at the end of 1938, with respect to the elimination of Jews from German economy, you had just shortly prior to that time received your first big position, is that correct, your position as head of the German Press Division?

A. I believe that I was given this position a month later.

Q. Well, did you expect that the treatment of Jews in the foreign countries occupied by Germany would be better than the treatment of

the Jews in Germany itself, particularly after you received the foreign press reports as to what was happening to these Jews in the foreign countries?

A. May I ask you to repeat the question? I didn't understand the beginning.

Q. Certainly. After you had read the foreign reports and the radio broadcast with respect to what was happening to the the Jews in the foreign countries, the occupied countries, did you at that time still believe, or did you believe at that time, that the Jews in the occupied countries were being treated better than the Jews in Germany had been treated?

A. I did not believe that but I did not believe either that they would be treated so much worse as was actually the case. For of the Jews resident in Germany the majority came to Theresienstadt, as I know today, and were not murdered, while the Jews in the occupied territories were largely sent to Auschwitz and killed.

Q As of 1 September 1939, where did you think the Jews of Germany were being kept?

A On the first of September 1939, as far as I know, of the approximately 500,000 German Jews, 200,000 had emigrated and 400,000 were still in the Reich; most of them were free.

Q You still felt from the first of September 1939 that most of the Jews in Germany were free, is that your testimony?

A I thought that then and I know today that that is the case.

Q Did you still believe that in the year 1944, with respect to German Jews?

A No, I knew that in 1944 they were evacuated from Germany.

Q Did you know that the Jews were not only evacuated from Germany but had also been evacuated from countries like Hungary and moved toward the east or further to the east?

A No, I did not know that. I knew only of the arrest of individual Jews, but not the evacuation en bloc of Jews in certain countries, which I know of now.

Q Did you know anything in your propaganda position about the contrary movement, namely, the settlement of German in the occupied countries, that is, in permanent homes?

A No, not in the occupied territories, only in territories to which Germany had raised, or intended to raise, some claim. The eastern territories lost at Versailles, for instance. I knew that permanent German settlements were set up there.

Q Did you believe any of the foreign press reports concerning the alleged murder, at the time of the Roehm affair, of many persons who were not even acquainted with Roehm?

A Whether the persons who were unjustly killed on the 30th of June, 1934, knew Roehm or not, I cannot say. At any rate, at noon on the 30th of June I heard from Goering himself at a press conference that together with the guilty conspirators of the 30th of June, as they were called at

the time, some innocent persons had perished.

Q Perhaps this is a strange question to you, but did you have any subordinate who were superior to, or who worked with, concentration camp inmates?

A I do not remember that any of my subordinates worked with concentration camp inmates; and at the moment I cannot think in what field that might have been. But I administered a field employing five thousand people. Whether one or another of them may have had connections with some concentration camp inmates, I cannot say.

Q Did you have any offers from the RSHA or from the authorities to visit any of the concentration camps in the Eastern Occupied areas, including Poland, after you had the foreign press reports and the radio broadcast reports that Jews and other opposition elements were being murdered there?

A I did not receive an express invitation to visit camps in the East. I do not know whether after 1942 I received any such invitations at all. But I do remember receiving such invitations when I was head of the department for the German press. I held that position until the spring of '42.

Q You never asked the authorities for permission to visit any of the eastern camps after you had these reports on atrocities?

A No, I did not express this wish.

Q Before 1939 did you personally travel abroad?

A What was the question?

Q I will rephrase the question. After you had your position from December, 1938 on, as leader of the German Press Division, did you travel abroad thereafter, except for your excursion to Russia when you were a soldier?

A As head of the Department for the German Press I do not believe that I made any trip abroad, but before and afterwards, I did.

Q Now, you read the daily press protocols to the representatives

of the German press after December, 1938, is that correct?

A May I ask what reports you are referring to?

Q The daily press paroles of the Ministry of Propaganda.

A Yes, of course I read that.

Q I mean you read them out loud to the press representatives?

A That was one of my duties at the press conference.

Q Did you determine the contents of the paroles which you read?

A No, that was not my duty. These paroles came from the Reich Press Chief — if I might just finish the answer. They arose first of all, from the requests of other ministries, such as the Foreign Office, Transportation, Finance, and so forth. Secondly, from requests of Dr. Goebbels. And, third, from the requests of Dr. Dietrich, the Reich Press Chief.

Q And although you were directly under Goebbels, as I understand it, you received reports for the press from Dietrich also, is that right, Dietrich, the Reich Press Chief?

A At that time, I was not directly under Dr. Goebbels. There were various people between us, including Dr. Dietrich.

Q Now, do you know any of these defendants personally, or had you met any of them before you came to Nuernberg, Dr. Fritzsche?

A Not that I am aware of. At the moment I can only say No. It may well be that I met one or another of the gentlemen at some meeting; perhaps I may even have spoken to one of them briefly.

Q Now, you spoke about a number of events before the war which were regarded as successes, successes which no one else had achieved for Germany except Hitler. Speaking of what the German people as a whole were thinking, is it your testimony that they regarded the occupation of Bohemia and Moravia, in March 1939, as one of Hitler's successes?

A Among the examples of Hitler's successes I deliberately refrained from mentioning the example that you are now bringing up, namely, the example of Bohemia and Moravia. The opinion in Germany of this success

of Hitler's was divided. The opinion on his previous successes — Sudetenland, Austria, and so forth — was almost unanimous.

Q You were reading the protocols of the Reichspressechef and the Propaganda Ministry at that time, that is to say, the early part of 1939, the last part of 1938. Were you aware at the time that there was a certain tendency or bias in these protocols with respect to the news, or did you consider that they were the objective truth?

A I cannot answer that question without an investigation of the question: What do you mean by objective news?

Q Did you think that the protocols that you were reading to the assembled newspaper people reported the truth concerning the affairs of the time?

A Of course, I thought that they presented the truth about the events of the time. If I had known that they did not present the truth, then I would not have read them out. But I also knew that this truth was colored with a certain tendency, and I approved that tendency as I understood it at the time. I can imagine that today people working in the information ministries of various nations also believe that what they pass on contains the objective truth, merely colored by a certain tendency.

Q With respect to Bohemia and Moravia and Slovakia, that is, the remaining part of Czechoslovakia after the Sudetenland was occupied in the fall of 1938 — in October, 1938 — after that time and before the occupation of Bohemia and Moravia, what did you personally think was the political objective of Hitler with respect to Bohemia and Moravia?

A.- I thought at the time that Hitler's aim was to neutralize this territory.

Q.- Well, it was neutralized completely from one point of view, in March 1939, when he occupied it; now, between that time and the first of September, 1939, a fresh attack was opened with respect to Poland; isn't that true?

A.- I must object to the ironic remark which preceded that question. I am not of the opinion that in March, 1939, Bohemia and Moravia were neutralized. It would be foolish of me to say so. On the contrary, it was drawn on to one side of the group of European powers. On the contrary, it was drawn on to one side of the group of European powers. If you ask me what reasons I had for thinking so, I will be glad to answer your questions.

Q.- I will withdraw that part of my question. It was slightly argumentative to say the least. Now let's go on to the period after the occupation of Prague in March, 1939. You recognized at that time, from the instructions that passed through your lips, that a campaign which emphasized the so-called Polish problem was begun; is that correct?

A.- Mr. Prosecutor, I was very attentively following events then, - and I have had three years now in prison to think over the details, therefore the answer that I am about to give you is the result of long deliberation, and I shall tell you the result of my deliberations without explanation, but I will be glad to add the explanation later.

I am of the opinion that after the case Bohemia and Moravia, Germany did not continue negotiations with Poland, but that it was Poland which continued them. The negotiations about the questions at issue with Poland was begun in December, 1939 by Germany; - I beg your pardon, - in December 1938.

Q.- Did you think that the objective of Hitler with respect to Poland was also a neutralization?

THE PRESIDENT: Just a moment. I think you would serve us better if you would develop from the witness what light he can throw on what the German people thought, and what were matters of general and common knowledge, rather than what he thought at the time, or thinks now about it. That will not be very helpful to us. You have had several questions, and unless it is purely preliminary to the broad objective, may I suggest that that would be more helpful, if you can show what the state of public opinion was, what these defendants, as members of society may be charged with having known or thought at the time, which is really the objective that we are concerned about.

BY MR. SPRECHER:

Q.- Were you convinced, Dr. Fritzsche, that the German people on the whole, were believing everything which you were putting out in the daily press paroles?

A.- No news was contained at all in the daily paroles. They merely contained instructions or recommendations for the manner in which news was to be presented. The news came from quite different sources, through the Deutsches Nachrichtenbureau, and the foreign correspondents of the papers. Therefore, it is difficult to answer the question, whether or not the German people believed in the daily paroles.

Q.- Were you quite convinced, as a member of the Propaganda Ministry, that the German people were believing the Volkischer Beobachter then?

A.- No, I did not believe manythings it said and I regretted that very much. That was the result of very poor press policy during the Sudeten crisis.

Q.- And when you came into the Propaganda Ministry, just after that, you wanted to develop a propaganda which was more believable by the German people; isn't that true?

A.- Precisely.

Q.- Now did you personally get any knowledge about mobilization plants

with respect to economic mobilization, before September, 1939?

A.- Yes, I felt. I heard and I even learned officially that the German economic potential was going expanded, and I also learned that the war potential was being expanded. On the other hand, I am convinced today that at that time armaments were being produced to an insignificant extent, and almost exclusively for the Luftwaffe.

However, I knew, that the economic war potential was being increased - that is the possibility, if necessary, - to produce weapons on short notice.

Q.- Now one other question. You mentioned that you took some kind of a poll, or there was some kind of a poll taken with respect to how Germans were reacting on various points about which there might be public opinion; did you ever circulate a question among the German people which was substantially something like the following: "Do you believe in Hitler's assurances of Peace?"

A.- I did not make such a Gallup-like poll, I have already said that this was done by an office working under the RSHA, but in my daily discussions, I of course, often asked this question and I held this discussion not with thousands, but with dozens and even hundreds of people, and not simple citizens, but Journalists, that is, men who made public opinion.

Now, after the war, I have learned to my astonishment that many of the Journalists, to whom I spoke then, were very hostile to Hitler.

Q.- Well, before the war, and before you learned that, did most people know who you were when they talked to you; that is, what position you held in the Propaganda Ministry?

A.- Everyone of the Press Conference knew my position in the Propaganda Ministry.

Q.- Now you mentioned the RSHA - the Reich Security Main Office, - an some research that it put on. Was this before 1938?

A.- Whether it was before 1938. I do not know. I remember that I

received reports before 1938, but because I had a lower rank in the Ministry at that time I learned of them only in part, and only orally, and I did not see the original. I do not know the source of these reports. On the other hand, I do remember that about the time of the crisis, and the outbreak of the war, I received a forerunner of the news service which later ran until the end of the war under the name of "Lagebericht", - Situation Report, if I'm not mistaken.

MR. SPRECHER: No further questions.

THE PRESIDENT: Anything further from the counsel for the Defense?

RE DIRECT EXAMINATION

DR. BOETTCHER: Only one question.

Q.- Witness, in cross-examination by Mr. Sprecher, you said that in the course of 1939, you received information to the effect that the economic potential for a war was being expanded in order that in the case of war, arms could be produced. In this connection would you tell me whether you brought this fact in connection with any aggressive intentions, and whether the German people saw it in this connection?

A.- Of course not. For me, and probably for many millions of Germans, this expansion of the war potential was a natural consequence of the failure of others to disarm, and the equalization of armaments by German rearmament.

DR. BOETTCHER: Thank you very much. No further questions.

THE PRESIDENT: Counsel, are you all through with this witness now? Then, Mr. Witness you are excused from further attendance. The Marshal will escort you from the box.

DR. BOETTCHER: Your Honor, with your permission I shall now submit Book III. These are documents pertaining to the German foreign policy. Part III contains a number of documents which were also introduced in the Krupp trial. From Books II A and II B which were introduced and accepted in the Krupp Tribunal, containing altogether one hundred documents, I selected twelve which I shall submit to Your Honors in this connection. These are all affidavits of German military leaders, with one exception, who confirm the defensive nature of Germany's rearmament and who deny any aggressive aims. CK Document #94 will be an affidavit of the former Generaleoberst Wilhelm Adam. He discusses the military situation in Germany in 1933 when the Nazis seized power. This will become Defense Exhibit 148.

Document #95 discusses the danger of a potential attack on Germany's eastern frontier and it shows the defensive purposes of the measures taken by the German Army before 1938. I should like to quote the following sentence from General Ziegler's statement, I quote: "In the building up of the German Wehrmacht after 1934, the military leadership merely thought of Germany's equality with other nations but not of an aggressive war. Any other considerations by the highest political leadership were unknown to the Wehrmacht." This document will become Defense Exhibit 149.

The next document, Your Honor, will be CK Document #96 and I offer it as Defense Exhibit 150. The most important sentence in this affidavit of General Herbert von Doeckmann, who from 1934 until 1935 was the referent in the Reich Ministry of War, is the following: "Even in the subsequent years, after the reintroduction of general military conscription, the Wehrmacht didn't know anything of warlike intentions by the political leadership."

We now turn to Document #97 which will become Defense Exhibit 151. This is an affidavit of General Westphal who, from 1935 until 1938, was active in the operational department of the general staff of the army. Important with respect to common knowledge as to

aggressive aims is the following sentence: "The High Command and General Staff of the Army held the view that the German Army would be prepared for a war which would be forced upon it in the year 1943 at the earliest."

The next document will be 98 which will become Exhibit 152. This, Your Honor, is an excerpt from the transcript of the IMT of 9 August 1946. This is the interrogation of former General Field-Marshal von Manstein. On page 20 of the document book it says, I quote: "The intentions we had in the occupation of the Rhineland were purely defensive. The Western Wall was planned, just as the Maginot Line, as a wall insurmountable in the event of an attack." This document is to become Defense Exhibit 152.

The next document, #99, will become Defense Exhibit 153. It is important, because it deals with the so-called general staff travels abroad for the training of the higher general staff officers. I quote: "The tasks in respect to all these travels were the defense against a French attack or a joint attack by France and Czechoslovakia, on German territory."

The next document is #100 which will become Exhibit 154. It deals with a similar subject. Generaloberst Adams, who up to 1938 held a leading position with the German Wehrmacht, again speaks of the tendency in the training of the leading officers from the point of view of national defense. In that connection the following sentence is decisive, I quote: "Whenever I trained for any duties as an officer, an attack against another country was never the problem."

The next document 101 is also an affidavit by Generaloberst Adam. It will become Defense Exhibit 155. This affidavit shows how the commander-in-chief of the army Brauchitsch, in 1938, called a conference on the military political situation. He deals with a memorandum which General Beck, the Chief of the General Staff, read and which dealt with Germany's internal and foreign position. In that connection he discusses Germany's policy. Generaloberst von Brauchitsch

summarized the result of the conference with the following statement:

"The higher officers of the army are united in our rejection of war."

The following document, #102, will receive Defense Exhibit 156. This is the testimony made by Generaloberst von Brauchitsch, who was just mentioned before, before the IMT. This document is in supplementation of Krauch Document #129 which I introduced this morning in Book IX of the Krauch documents. It is closely tied up with Defense Exhibit 155 just introduced.

The next document, Your Honor, will be CK Document 103. It is an affidavit of Generaloberst Beck's successor. He was General Halder. He discusses the unfavorable position of Germany from a military point of view. On page 34 of the document book he says the following in summary, and I quote: "The Wehrmacht always had in mind the defense of its own country. As to this concept, they were always reassured by the proclamations of the Reich Government and also by Adolf Hitler's government."

On page 36 the affiant discusses the question of preparation for war by the General Staff. On page 37 it is stated: "Up to 1939, no plan of the General Staff existed which can be designated as a plan for the concentration of troops for action or an operational plan, either to the east or to the west."

Then he says: "The plans for offensive in the west occasioned by the declaration of war on the part of England and France were only made after the Polish Campaign on orders from the OKW." This document will be Defense Exhibit 157.

Document 104 I should like to offer at the end of the book because that is where it belongs according to its contents.

I now offer 105 as Defense Exhibit 158. It is an affidavit by Generaloberst Guderian who, on 21 July 1944, became Chief of the General Staff, after previously having held many high positions with the German Wehrmacht. He discusses the initiative for the German rearmament, often the subject of discussion here, and on page 43 states

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the following and I quote: "Even when issuing orders for the development of armored cars and tanks the army staff was only thinking of the defense of its own country." Very interesting are the figures which he gives with respect to armaments equality with all the potential enemies up to 1939.

On page 44 of the document book it is stated that in 1939 Russia had approximately seven thousand tanks whereas Germany had only twelve hundred. In 1940, Great Britain and France brought 4,500 tanks to the Western front. At that time, Germany had only 1,800 tanks including the little armored cars necessary for reconnaissance." It becomes apparent from all the documents in this book that the decisions of Hitler were not even known to the highest military leaders up to the very last moment. Furthermore, it is interesting to know in connection with good faith in the government, that the Wehrmacht was always an instrument intended for the maintenance of peace, at least it was always designated as such. In conclusion of this document book and in conclusion of my presentation with respect to Germany's foreign policy - shall now submit Document 104 which are excerpts from speeches and statements by General George C. Marshal. The heading reads: "National Defense -- the Business of Every Citizen." From this document the national concept becomes apparent that in times of danger it's not only the right but the duty of a country to arm itself. This document will become Defense Exhibit 159.

THE PRESIDENT: I believe, Doctor, 104 should have Exhibit 160. 106 was given 159.

DR. BOETTCHER: I shall now introduce Document 106 which will make Document 104 Exhibit 159. Now, Your Honors, I should like to call a witness, Hienemann, who is a witness as to confirm the views contained in these documents.

THE PRESIDENT: The Marshal will bring in the witness. Mr. Witness, will you please remain standing for the purpose of being sworn, raise your right hand, say "I," and state your name for the record.

THE WITNESS: I, Rudolf Hienemann.

THE PRESIDENT: And now repeat after me the oath of a witness -- swear by God the Almighty and the Conscient, that I will speak the pure truth, and will add and withhold nothing.

(The witness repeated the oath.)

You may be seated.

DIRECT EXAMINATION

BY DR. BOETTCHER:

Q Your Honors, may I announce that I shall put the Prosecution Exhibit 445 to the witness in the course of his examination. Perhaps the Tribunal will be interested in having this document before it. If so it will find it in Prosecution's Book 21, English page 3. Witness, give me your place of residence for the record.

A Rheine, Westphalia, Maensterstrasse 48.

Q Witness, would you be kind enough to describe to the Tribunal your career and your activity up until the war and during the war so that the Tribunal may get some sort of the idea about your expert knowledge.

A I was a professional soldier - an officer. From 1936 until 1943 I was in the Military Economy Office in the OKW, with the exception of the period from 1940 until April 1941. From 1938 until 1943 I was Chief of Staff of this office.

Q Witness, what were the tasks of the Military Economy Staff?

A This was an agency of the High Command of the Wehrmacht and was directly under the Chief of the High Command, Keitel. Its main duty was to prepare the German armament industry for the event of war. In connection with this, the Wehrwirtschaftsstab had to inform the military agencies about our own economic war potential in comparison to that of other world powers.

Q Now witness, how did you judge the potential of German war economy in 1936, when you took over your job?

A In 1936, the strength of the German Wehrmacht was so slight and the extent of German armament industry was so insignificant that war could not even be considered. It would have been an event that lasted only a few weeks.

Q Can you substantiate your views briefly?

A Because of the Versailles Treaty Germany had been disarmed to a large extent. There was only one firm that was a monopoly firm for each type of arms and ammunition. The further development of modern weapons, planes, bombers, was far behind. The number of ships which the navy had was at a minimum.

Q How were you informed about the extent and the aims of German rearmament?

A Our superior, the Chief of the High Command of the Wehrmacht, Keitel, did not inform us at all.

THE PRESIDENT: Mr. Witness, may I take the liberty of reminding you that we do not understand what you say and we must necessarily wait for a translation. If you will please pause after Dr. Boettcher asks you a question until we get the translation of his question, before you start to speak, it will avoid us hearing both languages simultaneously.

BY DR. BOETTCHER:

Q Witness, you just said that the OKW, Chief of which was Keitel, did not inform you about the intentions and aims of Hitler with respect to armament. My question is this. What agencies did inform you about the intentions and armament aims of Hitler?

A We did not learn of all the plans of the army, navy or Luftwaffe, in respect to armament. The high commands of the various branches of the Wehrmacht reported their requirements. One must distinguish here: For peacetime requirements the branches of the Wehrmacht — that is Army, Navy and Airforce, — reported only their raw material requirements, while the requirements for war were reported in finished products.

Q Could you explain this statement by giving us an example?

A In peacetime the branches of the Wehrmacht armed independently. They reported to the OKW only their requirements in raw materials — that is how many tons of steel they needed per month or

aluminum and similar raw materials, while for their war needs the High Commands reported their monthly requirements — for example the Army would say 1200 machine guns, 20,000 rifles, 300 tanks or the Airforce 150 fighters a month.

Q From these statements could you conclude Hitler's aims for war or peace?

A No, for we were given a report of the requirements of weapons, for example, 1200 machine guns. But for how many divisions they were destined we could not tell from these figures. We did not know what the loss factor was for the particular plane or tank.

THE PRESIDENT: Dr. Boettcher, it appears that you will not be able to finish with this witness this evening. There may be an announcement or two which should be made and I think you may suspend at this time. Judge Hebert has something to say to counsel about tomorrow's schedule.

JUDGE HERBERT: I merely want to call the attention of counsel to the fact that immediately following the conclusion of the evidence which is being presented by Dr. Boettcher, we will revert to the order of business of the presentation of the miscellaneous outstanding evidence including a number of documents which we have received early this week in their final processed form and quite a number of counsel are involved in the presentation of these various matters, so I wish to note it in order that they will be present, in order that we can follow in succession without interruption tomorrow. And one further word. Dr. Dix, the Tribunal will see you in chambers, in accordance with your request, immediately after adjournment.

THE PRESIDENT: Are there any other announcements?

MR. SPEECHER: Mr. President, and Judge Hebert particularly, I was wondering if we could ask the defense generally to prepare a listing of how they plan to proceed since we have had some difficulty in having our books in the room and particularly these various odd books and its exceedingly hard for us to follow just now. If Dr.

Rudolf Dix or one of the counsel could assume the responsibility for more or less indicating what is coming in order, giving the new documents, then I think we could avoid a loss of time because we would not be in the position we were in today without having any of the books or any of the odd documents in the room for some time.

JUDGE HERBERT: Well, I may say, Mr. Prosecutor, you are in about the same position that the Tribunal has been in and I think the safe practice would be to bring in all of the outstanding documents that you happen to have at hand, in order that we can follow along without any interruption. We do have a list by defendants of which I understood you had a copy of the order in which these miscellaneous matters would be presented, but I will see that you have a copy of that.

MR. SPEECHER: We will follow that list then?

JUDGE HERBERT: To the extent that it is practicable to do so.

THE PRESIDENT: Is there anything further, gentlemen? If not the Tribunal is in recess until nine o'clock tomorrow morning.

CERTIFICATE OF COMMISSIONER

Under directives of United States Military Tribunal No. 6, testimony of witnesses listed below was required to be taken before the undersigned Commissioner. Pursuant thereto the said Commissioner has conducted hearings at which the following witnesses have fully testified:

<u>Date</u>	<u>Name of Witness</u>	<u>Official Transcript</u>
8 April 1948	Walter Warlimont	10875-10907
9 April 1948	Kurt Krueger	11128-11163
12 April 1948	Karl Weber	11165-11175
12 April 1948	Paula Ester	11177-11199
13 April 1948	Ernst Struss	11293-11338
14 April 1948 &	Christian Zahn	11444-11490
15 April 1948	" "	11587-11612
16 April 1948	Bernhard Schoener	11706-11723
19 April 1948	Adalbert Feindal	11827-11841
20 April 1948	Josef Grebel	11842-11860
20 April 1948	Gustav Pistor	11861-11878
21 April 1948	Emil de Haes	12098-12128
21 April 1948	Heinrich Schuh	12129-12140
23 April 1948 &	Heinrich Schindler	12337-12370
28 April 1948	" "	12707-12777
26 April 1948	Walter Kikuth	12461-12498
26 April 1948	Hans Bauer	12500-12512
27 April 1948	Wilhelm Duellberg	12598-12621
29 April 1948	Theo Goldschmidt	12871-12909
29 April 1948 &	Anton Reithinger	12910-12953
30 April 1948	" "	13075-13092
29 April 1948 &	Rudolf von Spretty	12954-12960
30 April 1948	" "	13065-13075
30 April 1948,	Rudolf Schmidt	13093-13133
5 May 1948 &	" "	13620-13629
6 May 1948	" "	13651-13719
3 May 1948	Wolfgang Alt	13246-13269
3 May 1948	Carl Gadow	13271-13291
3 May 1948 &	Kurt Hartmann	13292-13316
4 May 1948	" "	13412-13450
4 May 1948	Fritz Dion	13450-13460
4 May 1948	Kurt Bisfeld	13461-13479
4 May 1948	Adolf Taub	13480-13489
5 May 1948	Ernst Struss (for Pres.)	13566-13619
6 May 1948 &	Werner Schnitz	13720-13735
7 May 1948	" "	13861-13891
10 May 1948	Max Winkler	14173-14181
10 May 1948	Fritz Hirsch	14195-14209
10 May 1948	Ernst Kraschewski	14210-14220
10 May 1948 &	Franz Fuerstenberg	14221-14245
11 May 1948	" "	14377-14384
11 May 1948	Heinz Savoleberg	14387-14424
11 May 1948	Karl Ranscheldt	14425-14439
11 May 1948	Reinhold	14440-14455
10 May 1948	Friedrich Selcher	14482-14494

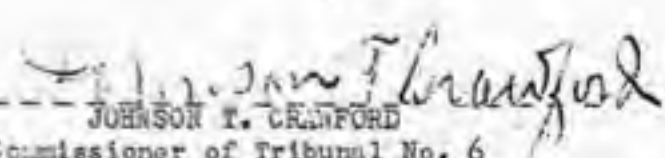
During the said proceedings the following exhibits have been offered in evidence:

PROSECUTION EXHIBITS

<u>Exhibit</u>	<u>NI No.</u>	<u>Official Transcript</u>
2302	FS 2353 C	10899
2303	L79	10904
2304	14036	11145
2305	14034	11182
2306	15070	11183
2307	14236	11302
2309	14232	11312
2311	15062	11327
2312	15063	11330
2314	14257	11466
2315	13524	11473
2316	14256	11473
2317	14251	11485
2318	14252	11476
2319	14014	11482
2320	14039	11834
2321	13084	11848
2328	10532	12615
2329	10528	12616
2323	10907	12706
2330	13525	12733
2331	15021	12878
2332	3763	12915
2333	15145	12921
2334	15146	12923
2335	8647	12927
2336	15132	12933
2337	1514	12942
2338	14098	13106
2339	13534	13111
2340	15215	13126
2341	15260	13620
2342	15173	13286
2345	7637	13728
2346	7666	13730
2352	15290	14382
2353	15296	14392

I, the undersigned Commissioner, do hereby certify that the aforesaid official transcript pages comprise a full, true and correct report of such proceedings, testimony and evidence heard and recorded therein before me.

Dated at Nurnberg, Germany, May 28, 1948.


 JOHNSON T. CRAWFORD
 Commissioner of Tribunal No. 6

Official Transcript of hearing before a Commissioner
for Military Tribunal VI, Case VI, in the matter of
the United States of America against Karl Krauch et
al., defendants, sitting at Nurnberg, Germany, on
4 May 1948, Commissioner Johnson T. Crawford presiding.

THE MARSHAL: The Commission for Tribunal VI is now in session.

MR. AMCHAN: We are waiting one moment, if your Honor please,
for Defense Counsel to show up.

CROSS EXAMINATION — Continued

KURT HARTMANN — Resumed

BY MR. AMCHAN:

Q. Mr. Witness, you were telling us yesterday about the data that
you used in compiling the chart dealing with the production of methanol
by Farben, which is contained in your affidavit Bueterfisch Document 228.
Now then, I understood you to say that first you used a copy of some
report from Department I compiled 5 February 1940, and that you found
a copy of that report in Verdingen, is that right?

A. Yes.

Q. Now what does that document purport to state?

A. This document gives the production of methanol for 1935 until
1939.

Q. Does that document indicate which plants are covered by the
figures?

A. That's very simple because in those years methanol was only
produced in Leuna.

Q. I said, does the document show that?

A. For the expert this is a matter of course, but it does not say
so in the document.

Q. Have you got the photostat of the original of that document?

A. Whatever I have I showed you.

Q. Have you got the photostat of the original of that document?

A. This is a photostat of the copy which is in Verdingen.

Q. What is the photostat?

A. The chart which you yourself looked at and which you kept overnight.

Q. You showed me a typewritten copy of some document of Committee L. Now, is that a photostat or is that a typewritten copy?

A. This is a photostat. You confuse this with another copy which I also gave you.

Q. Suppose you show me the document which you say you gave me, the one covering the production figures for the years 1935 to 1939.

A. You looked at all those documents. In fact, you looked at them longer than we agreed upon.

Q. Have you got those documents now?

A. I got them back this morning instead of last night as we agreed upon.

A. Have you got them now?

A. I just said I have them now.

Q. Will you show me the documents then, that you are referring to? All the documents.

A. You wanted to see those documents which come from Department L?

Q. That's right.

A. Alright.

Q. Will you please, Mr. Witness, hand me those documents. Now, Mr. Witness, have you got a photostat or a copy that we can put in the record or is this the only copy you have?

A. I said yesterday, that this is my only copy.

Q. So, you have nothing to put before the Tribunal, have you?

A. No.

Q. Now, this first document you showed me consists of two typewritten pages, is that right?

A. That's right.

Q. That's not a photostat of the original, is it?

Mr. Witness, will you please look at the document which I am showing

you? It is dated 5 February 1940. Is it a photostat or not?

A. The file note is a copy and as a supplement there is a photostat. I already said that yesterday.

Q. Mr. Witness, I am asking you today, and I want to be sure we are talking about the same document.

Now, you have not got a photostat to present to the Tribunal, and you have no way of identifying these documents, and you are reluctant to leave these documents with the Tribunal. Are you prepared to put these documents in evidence with the Tribunal?

A. I have no misgivings about putting these documents in evidence.

Q. Do you object if I mark these documents and offer them in evidence so that we will know what we are talking about?

MR. FLAESHNER: I protest against this type of procedure. Out of courtesy, the witness yesterday made his documents available to the Prosecution. If the witness is now asked whether he agrees to the prosecutor submitting these documents as evidence, then this is, in my opinion, a very unusual procedure. The witness is here in order to be asked questions and in order to answer questions. He is not here in order to submit documents to the Prosecution. I do not understand from what legal viewpoint the prosecutor can do such a thing. I do not think that the American procedure in trials would agree to such a proceeding. At least, the continental procedure does not know any such procedure, and I ask for a decision whether this type of procedure, and I ask for a decision whether this type of procedure is approved.

MR. AMCHAM: I will enlighten Counsel directly.

The witness has given an affidavit and in the affidavit he has set forth a chart, indicating the production of methanol. He is being interrogated as to what the data is, and what documents he has used to compile the chart. Now, the record is in this condition. He has undertaken to testify as to the preliminary documents that he used from which he made the affidavit, and the chart. There is no copy of the document for

identification purposes for the record, and the record stands so that we cannot identify just what the documents are that the witness used to compile his affidavit.

Now, my objective is quite simple. When the witness said that he used certain document, we are entitled to cross examine as to that. My purpose simply is that I would like to have those documents identified so that we are able to check whether his affidavits and charts are accurate or not. If the witness were to take a position that we cannot inquire as to the data he used when he compiled this chart, I would like to know if that is his position. Then all we have left before us, is his chart without being enabled to check the primary documents or the data upon which he made his affidavit and the chart.

MR. FLAEGHSNER: I only want to make the following remark about that. When the Prosecution presented its case in chief, they offered a series of affidavits, reports, tables and compilations without giving any data and without the affidavits showing how the reports which were submitted were compiled, from what sources they compiled these reports. When it submitted documents of the Strategic Bombing Survey together with tables, the Defense was not in a position to check the figures in any manner which were contained in these reports. We were in the same situation, when the tables were submitted by the Prosecution when the affiants were present. The Defense is of the opinion that just as the defense had to be satisfied to accept the chart the Prosecution offered, the Prosecution has to limit itself to accepting the correctness of the technical data which are gathered from the charts submitted by the Defense. It can check these data best by questioning the witness as to how he arrived at his technical data, and the witness is obligated to give full answers to that.

But, it is quite something different if the Prosecution demands the document itself. The Prosecution is obligated, in this respect, to get the data elsewhere, just as the Defense had to make efforts to get

to the original figures. But the Prosecution cannot simplify matters for itself just by demanding that the witness hand over that material which the witness used in making up the affidavit which he submitted to the Court.

I ask, therefore, that a decision be made as to whether the witness is obligated to furnish any documents to the Prosecution.

MR. AMCHAN: In reply, I want to point out first, that Counsel is entirely wrong in his statement of facts. When the Prosecution introduced affidavits of technical charts and figures, the Prosecution's affiant was always available for cross examination, and if the Defense chose not to exercise its right of cross examination, that's one thing.

Secondly, in connection with affidavits which the Prosecution introduced which contained charts and figures of its affiant, Dr. Struss, the Defendant Ter Meer and his counsel, at their request, were permitted by the Tribunal to go to Frankfurt and consult with Dr. Struss and examine all the primary documents upon which Dr. Struss made his charts and affidavits. It was after the Defense went to the primary sources that they decided not to cross examine.

But our situation here is quite clear in our view. When a defense affiant comes on the witness stand, and the defense has submitted an affidavit by this affiant setting out certain charts, the right of cross examination which the Prosecution has, is meaningless unless it is empowered to inquire into the sources which the affiant used to compile those charts. Now, if the rule that the Counsel for Defense urges is correct, then all the Prosecution would be left with, is to ask the witness a question and it would not be able to pursue his answer to ascertain whether or not it is correct or not. The very essence of cross examination requires that the witness be interrogated as to the information he had at hand upon which he formulated his opinion, and if such information is set forth in documents, cross examination requires that we be permitted to examine those documents because if we were not permitted to examine those documents, then we have

no way of ascertaining whether he has correctly transcribed the information from the primary documents, whether he has made an error willfully or unwillingly.

Now, the record has enough on this point for the Tribunal to pass on this subject should the Defense desire to pursue it further. On the cross examination of this witness, we propose to pursue the inquiry as to what information and what data and what documents this affiant used when he compiled these charts. And we want to see the data that he used, and it is not sufficient if we ask him what he used unless we can actually see the documents.

THE COMMISSIONER: I think the record is full enough now. You may proceed.

THE COMMISSIONER: I think the record is full enough now. You may proceed.

Q. Mr. Witness, may I suggest to you that it would expedite the examination if you would just undertake to answer a question directly, and not undertake to argue with counsel? Now, I am discussing your affidavit, Bucofish No. 228, and the charges submitted in that connection. Now am I correct in understanding that you used the following documents in compiling your affidavit and the chart: (1) A two page letter which you say comes from Department L of the Chemical Sales Committee at Frankfurt, dated 5 February 1940, and which document, a copy of which you have submitted to me, purports to give the production figures of methanol for 1935 to 1939? Is that correct so far?

A. No, the letter or the file memorandum does not contain the production from 1935 on, but as far as I remember it contains 1938 and 1939. The accompanying tables —.

Q. Before we get to the table, let us understand the other document, the file note you say from Department L?

A. This contains only two years, as far as I remember.

Q. Tell me what years it covers?

A. 1938 and 1939.

Q. Now could you answer the next question yes or no. Does it show what plants are included, or has it got over-all figures without mentioning any plants?

A. The plant is not mentioned.

Q. Now, do I correctly understand that the next document you used is a compilation which you showed me in the form of a photostat?

A. Yes.

Q. And it is dated December, 1939. Could you tell me what that covers?

A. This table gives the production for the years 1935 until 1938 and for 1939, subdivided according to months. That is, all years from 1935 to 1939.

Q. Now where does that document come from?

A. Both documents come from Verdingen, and they were originally made out by Department L in Frankfurt.

Q. And Department L comes from what subdivision in Farben? Department L of what?

A. That is the sales department for Chemicals in Frankfurt, Department L.

Q. Now then, do they give the production figures or do they give the sales figures.

A. They give the production figures.

Q. Both documents give the production figures.

A. Yes.

Q. The Sales Department for Chemicals kept figures on production?

A. Evidently, yes, otherwise I had nothing to do with the Sales Department, but I merely gather that from these documents.

Q. What other documents did you use to compile this chart, Buefisch No. 228.

A. For the following years I used a table from Ludwigshaven which you also saw yesterday.

Q. What years did that cover?

A. This covers the years 1937 until 1943.

Q. Now, then --

A. In my table --

Q. This Ludwigshaven document, have you got a photostat of the original on that?

A. No. From Ludwigshaven I received a copy.

Q. A typewritten copy?

A. That is right.

Q. Made expressly for you?

A. Not for me personally, but perhaps at the request of the defense.

Q. What does that show? What does that document show?

A. This document shows for various products the production of Sparte I in the year 1937 until 1943.

Q. May I see that? (Handed to counsel).

DR. FLASCHNER: I come back once more to the motion which I made before. If the Prosecution wishes to see the original, it must go to Ludwigshaven where it was before quite frequently and there it must convince itself of the figures; but to demand the documents here it is not justified to do so. It is justified to ask how the witness got his data and it is also justified where he got his documents and where they are to be found, but it is not justified to demand the witness' documents from him, and I protest very energetically, and in case the Prosecution does not want to stop this procedure, I would ask that this examination be interrupted until the tribunal has decided on this fundamental question, provided the Commissioner does not wish to make a decision on his own. I do not want the Prosecution in the future to demand even one more document from this witness.

MR. ANCHAN: We intend to continue the cross examination along lines which we consider to be proper. If there is any evidence coming in here which the defense thinks is not proper, they can make proper application to the Tribunal to strike it out. We have no intention of postponing any of these hearings simply because the defense wants a ruling immediately. They will just have to wait and pursue the regular procedure, and at the close of the hearing make proper application to the court for relief. Now if the witness declines to show us the documents that he used in connection with his affidavit, or if the witness declines to show us for our own examination the documents he used to compile his own affidavit, let him so state it on the record, and we won't pursue the matter further. Now, if that is what counsel has in mind let him state it. If defense counsel's position is that when we ask him a question as to what documents he used to compile his figures, and if we ask him to show us those documents, if they want to insist that we may not ask for it for purposes of examination and cross examination, let them state that, on the record.

DR. FLAEBCHNER: I ask a decision. I have nothing to add to my statements.

THE COMMISSIONER: Very well. You may proceed.

Q. Mr. Witness, you have shown me a typewritten copy containing a chart which purports to show the production of Sparte I from 1937 to 1943. Now you say you got this from Ludwigshaven, is that right?

A. That is right.

Q. Could you tell me what products are covered in that chart?

A. This includes all essential products of Sparte I.

Q. Just call them off.

A. Nitrogen; methanol; gasoline; mineral oil and lubricating materials; Kanol, Plastics and preliminary products for plastics; detergent raw materials and waxes; metals; lanusa, other organic products and other inorganic substances.

Q. Now what do the figures after those products purport to show?

A. I didn't understand the question.

Q. The figures opposite the products that you mentioned in that chart that you have before you, what are they supposed to show?

A. The products of Sparte I in the above-mentioned years.

Q. For those products?

A. For these products, yes.

Q. What other documents or data did you use when you compiled your chart, Buete fish No. 228.

A. I used the figures for methanol and that is for the years starting at 1940.

Q. I am sorry, I don't think you understood me, Mr. Witness. I said in addition to the figures in this chart, which you just said you got from Ludwigshaven, there were figures there. Did you use any other documents or charts other than that? Do you understand my question?

A. I showed you the preceding table.

Q. That is right. Let me put the thing this way. I understand from your testimony up until now that you used the following documents,

(1) the two page file note from Department L of the Sales Department of Chemicals: (2) you used the one page photostatic copy of production figures from 1935 to 1939, and (3) you used this typewritten sheet showing the production figures of the listed production which you got from Ludwigshaven. Do I correctly understand your testimony so far, that those three documents are the basis from which you compiled your affidavit, Budefish 228? Am I right so far?

A. Yes.

Q. Any other documents that you used to compile this chart?

A. I used other documents, too, and I compared them with these figures.

Q. What documents did you use?

A. For the years 1933 and 1934 I needed figures which were not contained here, and I got those from the conference reports of the Sparte Conferences.

Q. What kind of figures?

A. Production figures, and I compared them with sales figures.

Q. And you got those from Sparte I conference reports?

A: Yes, they were contained therein.

Q: Can you identify the conference reports that you consulted and got the figures from?

A: I don't have them with me.

Q: Can you identify them by date?

A: Yes, that is a Sparte report of 7 December 1936.

Q: And where is the original or copy of that report located now?

A: In Ludwigshafen.

Q: What other documents or conference reports did you consult?

A: In the document center in Griesheim I studied files and compared the data which I found there about methanol with these compilations in order to examine whether they could be correct.

Q: Could you identify the documents you consulted at Griesheim?

A: Those were the entire files of the Sparte office and other departments of Farben.

Q: Have you got copies of those with you?

A: No, these were only notes.

Q: What was the nature of the information you got in those documents?

A: At some places in the files — in various places, there were data about production. These might have been conference reports, file notes and similar things.

Q: What kind of data about production?

A: Methanol production.

Q: Well, what did it do? Just give production figures of methanol?

A: I didn't note this down specifically because here I have a complete compilation. In Griesheim. I merely checked up.

Q: To see if the figures you got from Ludwigshafen were correct?

A: Yes, that is right.

Q: Now what other documents did you consult in compiling your affidavit, Buete fish 228?

A. In respect to production, I have said everything.

Q. Am I correct then that you testified to all the primary sources that you used, and based on those sources you compiled this chart production of methanol by I. G. which is set out in Buete fish 228? Is that right?

A. Yes, that is right; that is the productions. Naturally not the consumption.

Q. Did you also consult documents with respect to consumption of methanol?

A. Yes.

Q. What documents did you consult for that purpose?

A. For the consumption for explosive purposes, I had data made for me from Troisdorf.

Q. Just tell me how you went about having data made for you. What do you mean you had data made for you at Troisdorf?

A. I wrote to Troisdorf and I requested that the consumption of methanol for hexogene be given to me.

Q. And whom did you write to in Troisdorf?

A. To Mr. Schindler.

Q. That is the chief engineer of Dynamit, A.G.?

A. Yes.

Q. Did you write to him personally or in his official capacity?

A. To him personally.

Q. And what did you ask him for?

A. I asked him whether he was in a position to give me the figures for methanol consumption for hexogene.

Q. You said you asked him? Does that mean you orally asked him, or you wrote him?

A. I wrote him.

Q. And what did Mr. Schindler reply? How did he give you the information?

A. I received an affidavit of a Dr. Schnurr, who likewise belonged

to the D/G, about the consumption of methanol for hexogene.

Q. And did you use that affidavit and incorporate the figures in your chart?

A. I used these figures.

Q. Have you got the affidavit before you now?

A. Yes, I have a copy of it.

Q. May I see that? (Document handed to counsel.)

A. I haven't received the other table back yet.

Q. You have gotten all your documents back, haven't you? Mr. Witness, the documents you handed to me during your examination, you have got those documents back, have you not?

A. I made a mistake, I beg your pardon.

Q. Now, Mr. Witness, did you check the figures which were given to you by the affiant, Dr. Schnurr, or did you just take his figures and incorporate them in your chart?

A. I could not check those figures because I never had anything to do with explosives.

Q. Now, will you please read the last two sentences of the affidavit of Dr. Schnurr, which you say you just incorporated in your chart? What does that say?

A. "By considering the various types of processes of the quantities of formaldehyde to be used, we have the following figures on the consumption of methanol for hexogene from 1937 until 1944, inclusive:"

Q. Now then the affiant just gives you figures — total figures, is that right?

A. Yes, that is right.

Q. Does he break it down according to plants?

A. No.

Q. Does he tell you whether or not it includes all the explosive plants operated by Dynamit, A.G.?

A. No.

Q. Does he tell you whether that includes the production of the

subsidiaries of Dynamit A.G., namely Wessag, Verwertchemie, Deutsche Sprengchemie? Does he mention that?

A. That follows from the sentence just read, "by considering the various processes," because every plant worked according to one particular process.

Q. The question, Mr. Witness, is does that affidavit of Dr. Schnurr, whose figures you incorporated in your chart, does the affidavit of Dr. Schnurr and his figures include the production of the subsidiaries of Dynamit, A.G.? Could you answer that "yes" or "no", or don't you know?

A. In my opinion, yes.

Q. Can you indicate where in his affidavit he includes that? Tell me where in his affidavit he includes the production of the subsidiaries of Dynamit, A.G., namely Wessag, Verwertchemie, and Deutsche Sprengchemie? Please, Mr. Witness, I am asking you about the affidavit, not your own testimony. I asked you, please point out in the affidavit of Dr. Schnurr where he refers to the production of the subsidiaries of Dynamit A.G.?

A. There is no mention here of D.G., nor of subsidiary companies, but just in general of the consumption of methanol for the production of hexogens.

Q. And you don't know what plants it includes in that production figure, do you?

A I checked that, too, because --

Q I think you do not understand the question, Mr. Witness. I'm talking about that affidavit of Dr. Schnurr. Does that affidavit indicate the production and the plants from which the production figures were taken? Does it or does it not?

A The document speaks in general about the production of hexogene. In other words, it includes all production of hexogene.

Q Could you tell me yourself, since you are the one who made this chart, Buetevisch 228 -- could you yourself tell me what plants are covered with respect to the consumption of methanol for the production of hexogene?

Let me put the question another way. Could you tell me what plants are included in your chart, Buetevisch 228, which produced hexogene? Just answer that yes or no.

A One cannot answer that with "yes" or "no." You asked me what plants are contained therein and I can't say "yes" or "no" to that.

Q I'm asking you if -- could you name the plants producing hexogene which are covered in your production chart.

A I think I can give them to you.

Q Go ahead and give them to me.

A Doeberitz, Christianstadt, Elsnig, Kruemmel. Perhaps a few smaller ones which I do not know from memory because, as I said, I am not an expert on explosives.

Q I am only asking you, Witness, about your own chart, Buetevisch affidavit 228. Now, as to your chart, do I understand that you cover the hexogene production, via methanol, as to those four plants that you mentioned, namely: Doeberitz, Christianstadt, Elsnig, and Kruemmel? I am talking about your affidavit and your production chart, Mr. Witness.

do you understand me?

A Yes. And what would you like to know?

Q The question is: Do I correctly understand that in your chart, Buete-fisch Document 228, you have only included the hexogene production of the four plants that I mentioned; is that right?

A No. I said, and a few other plants which I don't know from memory. I listed the entire German production of hexogene.

Q And where did you get the entire German production of hexogene?

A This affidavit of Dr. Schnurr contains the methanol consumption for that.

Q Does Dr. Schnurr mention Doeberitz, Christianstadt, Elanig, and Kruehmelt?

A He speaks of the consumption of methanol for the production of hexogene. He does not limit this to one single plant. Besides, this affidavit of Dr. Schnurr is a supplement to a chart about the German production of explosives or hexogene -- German production of hexogene -- which I saw here and in which the plants I mentioned were listed by name.

Q Mr. Witness, I am interested only in those things that you saw which you used in compiling your affidavit 228, and I'm trying to ascertain just what documents you used and what information you had from which you compiled this affidavit. Let's move ahead. You say you got the figures from the Schnurr affidavit as to the production of hexogene, right?

A Yes.

Q And you just took those figures and put them in your chart, and that's the basis from which you made your chart as to the consumption of methanol, is that right?

A Yes.

Q "hat else did you use? "hat other documents and basic data?

A For the consumption of hexogene, nothing else.

Q "hat else did you use for the rest of the chart? Any other documents that you didn't tell me about?

A Furthermore I had Mr. Schindler give me the consumption of methanol for nitropenta.

Q And did you go about getting that information with respect to hexogene?

A Yes.

Q And what data did Mr. Schindler give you as to nitropenta?

A Mr. Schindler wrote me a letter in which these figures were contained.

Q Have you got that letter here?

A Yes.

Q May I see it?

Now, that consists of just two paragraphs -- that letter from Mr. Schindler to you; is that right?

A That's right.

Q And he just gives you total figures for the years 1935 through what?

A 1935 till 1944.

Q Does his letter give you any breakdown as to what plants are included in the production of nitropenta?

A No.

Q Do you know whether it includes all the factories of Dynamit A.G. -- which Dynamite A.G. operated?

A I wrote to Mr. Schindler and asked him whether he can give me the total consumption of methanol for nitropenta. Thereupon, I received this reply.

Q Do you know whether or not he has included all production of plants operated by Dynamit A.G. and its subsidiaries, namely, the Verwertchemie, Vasag, and Deutsche Sprengchemie? Do you know whether he has included those in his figures?

A I must assume so.

Q Does he state that in any way in his letter to you?

A That follows from my request.

Q Does his reply, Mr. Schindler's reply to you, indicate that he has included the production of the subsidiaries of Dynamit A.G.? Does he show that in his letter to you?

A In the letter it says generally how high the annual figures are. It is not limited to definite plants.

Q Now, Mr. Witness, you know that Herr Schindler was a witness before this Commissioner and was cross-examined with respect to his own figures, do you not?

A Yes.

Q Have you read his testimony?

A No, but I was partly present.

Q You heard his testimony then?

A That's right.

Q Now, what other documents did you use to compile this chart, Buotefisch 228?

A I also listed the approximate consumption for the production of toluol.

Q Where did you get those figures from? Toluol?

A Toluol was produced in Waldenburg, and I talked to the former plant manager of the Waldenburg plant about it.

Q What did you ask him and what information did you receive from him?

A I asked him for the production of toluol and I asked

him for the presumed consumption of methanol for this purpose.

Q And what kind of data did he give you?

A He was able only to give me approximate figures as to how high this production was. Therefore, ---

Q Did he communicate with you in writing or orally?

A I also got a letter from him, apart from the fact that I asked him orally.

Q Have you got that letter before you?

A Yes.

Q May I see it?

Is it correct to say that this letter that you received from -- what's his name? -- Dr. Beck, is it?

A Dr. Beck, yes.

Q He was the former manager of the Waldenburg plant?

A That's right.

Q And this letter which you just showed me -- that's a handwritten letter and appears to be a personal letter on one page, written on both sides in the handwriting of Dr. Beck; is that right?

A That's right.

Q Now, will you just read the information he gives you about the toluol consumption?

A "The Vitol factory was decided on in November 1939. The beginning of production was in the summer of 1941. 1941 was taken up by removing the difficulties in operation. From January or February 1942 on, the monthly production amounted to about 3,000 tons of Vitol until the end. Of course, because of unexpected difficulties especially in establishing contact with Leuna, there were fluctuations in the production. Part of the time we were able to produce more than 3,000 tons."

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Q And that information you incorporated in your chart;
is that right?

A That's right.

Q What other documents and primary data did you incorporate in your chart?

A For the Vitrol production; that is, for the consumption of methanol for toluol, I used these figures of Dr. Beck.

Q Now, at the time Dr. Beck gave you those figures, did he have access of the official documents of Waldenburg or does he just write to you from his recollection?

A Only from his recollection.

Q O.K. Go ahead.

A I compared these figures for toluol with data in Ludwigshafen.

Q What kind of data? Will you identify it, please?

A That was a report from 1942 about the actual and planned production of methanol and the sale, and about that share of it which might be used for toluol. There were estimated figures, and in my chart....

Q Just before you go to your chart, I am very much interested what the data which you speak about from Ludwigshafen is -- First, have you got the data from Ludwigshafen that you refer to? Have you got it here now?

A Yes.

Q May I see it?

THE COMMISSIONER: While you're looking at that it might be a good time to take a recess.

So the commission will be in recess about 15 or 20 minutes.

(A recess was taken.)

THE MARSHAL: The Commission is again in session.

MR. AMCHAN: With Your Honor's permission, since the schedule is not moving along, the defendant Mann could be excused from attending the hearing here, and may I ask Your Honor's permission to direct the Marshal to escort him back to the main Tribunal.

THE PRESIDENT: Yes. The Marshal will escort the defendant back.

(Defendant Mann is excused.)

BY MR. AMCHAN:

Q Mr. Witness, just before the recess you handed me a document, dated January 5, 1943 which you say came from Ludwigshafen and which you say you used in compiling your consumption data with respect to toluene, is that correct?

A Yes.

Q Could you tell me just what this document shows? Who is the author of the document?

A The document originates from an expert of the Ludwigshafen plant.

Q What is his name?

A There is a sign on this letter: Dr. A.T.; I presume it was Dr. Alt.

Q A-L-T?

A Yes.

Q Well, is his name on the last page of the document?

A Yes, that is correct.

Q And is this the same Dr. Alt who is assistant defense counsel in this case?

A Yes.

Q So do I correctly understand you that you took a document prepared by Dr. Alt, assistant defense counsel in this case, and incorporated that information in your production chart on methanol, is that right?

A Yes; but the document originates from the year 1943 when Dr. Alt was not yet a defense counsel.

Q What does that document purport to show?

A For my chart --

Q No, I am sorry. I am talking about Dr. Alt's document

A This was a report about the methanol and formaldehyde situation in 1942.

Q Well, does not the Dr. Alt document that you just mentioned deal with the planning and not with the actual fact of the extent to which production had been executed? Do you understand my question?

A Yes; I only used this document for toluol and I only concerned myself about the paragraph concerning toluol.

Q Read the paragraph that you concerned yourself with.

A. "The demand for toluol-Waldenburg is contained in the figures of this previous column. The demand for 100 parts toluol originally was to amount to 68 parts of raw methanol. Owing to poisoning of the contact, however, after a short period, the formation of trimethyl-ether occurred as a by-product. Up to 150 parts of raw methanol was the result and 100 parts of toluol. In the future, an average of 135 is to be expected. This factor was expected, and a production of 1960 mo-to toluol in the first quarter of 1943; 24, 140 mo-to toluol in the second quarter of 1943; 2,690 mo-to toluol in the third quarter of 1943; 2,800 mo-to toluol in the forth quarter of 1943; 3,000 mo-to toluol is expected at the end."

Q. Are those the figures that you used in your chart?

A. Yes.

Q. Now, are not these figures estimated demand for '43 and '44 and not actual consumption?

A. Yes.

Q. So you do not know, do you, what the actual consumption was?

A. No.

Q. Now you only have a report -- or at least the Dr. Alt report that you have before you deals with the years 1943 and 1944, is that right?

A. Yes.

Q. Did you see a similar report for the years 1936, 1937, 1938 and 1939?

A. During those years no toluol production existed as yet because as can be seen from the letter by Dr. Beck the production only started in the summer of 1941.

Q. Dr. Beck speaks about the production of toluol in 1941?

A. Yes.

Q. Whose production is he talking about: I.G. Farben or Dynanit A.G.?

A. Toluol was not produced by Dynanit A.G. but via methanol it was made only in one single plant in Waldenburg, which in the year 1941 started

operations.

Q. Do you know how mono-nitro-toluol is made? Is that made from methanol?

A. Mono-nitro-toluol, as far as I know—I am not an expert in this field — this is another stage in producing toluol.

Q. Well, do you make mono-nitro-toluol from toluol?

A. Yes, one does.

Q. So that if there is a production of mono-nitro-toluol, it would follow, would it not, that there was a prior production of toluol?

A. No.

Q. Why would it not follow?

A. Toluol normally and all over the world is a natural product which occurs when coke is made out of coal. The coke plants produced toluol, and toluol is then a commercial product.

Q. My question is: in order to make mono-nitro-toluol you have to have toluol, isn't that so?

A. Yes, one has to buy it.

Q. Did you look and did you search at Ludwigshafen for any reports similar to the one that you mentioned: the Dr. Alt report of 1942, did you search for reports of that sort for preceding years?

A. I did not have to ask for that kind of a report. I tried to obtain documents about the production of toluol in Waldenburg, but there were not any because Waldenburg is Polish now.

Q. The other document that you used in compiling your methanol chart is Buete-fisch 228. Is there anything else?

A. Nothing else.

Q. Now will you please look at your chart, Buete-fisch 228, you have a section which you designate: Methanol for Motor Fuels.

A. You mean fuel, do you?

Q. Methanol for motor fuels: do you see that in your chart?

A. Yes.

Q. How did you determine that figure? First, let me see if I understand you. Do you refer in your chart, when you say methanol for motor fuels, that that amount of methanol went to the automobile consumption?

A. Yes.

Q. Where did you get your figures?

A. In the chart from the sales chemicals in Frankfurt, the production of fuel methanol is mentioned in the letter which you have had in your hand.

Q. Will you please read that part where it mentions it?

A. "The production of fuel methanol until April 1939 still amounted to the monthly average production in 1938. Then it was reduced much owing to the changes in the additions of other chemicals, and ever since it has been stopped altogether. There were produced in 1938, 44,052 tons in 1939, 23,954 tons."

Q. Now from the portion of the two-page letter of Abteilung L that you just read, you made your chart indicating the quantity of methanol that went for the consumption of motor fuels, is that right?

A. Not for the use. These are not figures of use but these are figures of production, because the methanol for motor fuel has a slightly different quality than that which is used for chemical purposes.

Q. I am not asking you just now for any technical composition about different motor fuels. What I am interested in is you telling me exactly what you mean in your chart by methanol for motor fuels. What do you mean by that?

A. This is that kind of methanol which was produced with the ruling that it should be used for motor fuel. It was intended to be used for motor fuel.

Q. Well, is this a fair statement of the situation? Under the category in your chart of methanol for motor fuels you are referring to such methanol which was produced and intended to be used in the operation of motor vehicles. Is that a fair statement?

A. Yes.

Q. Now, the methanol which you referred to in your chart, which was of a kind that could be used in the operation of motor vehicles, is that limited to civilian operation of motor vehicles?

A. What kind of fuels the Wehrmacht used we did not know.

Q. Was this compilation in your chart about methanol for motor fuels — does that include the methanol that went to the motorized Wehrmacht?

A.- Nothing is said in my chart about that, only production is mentioned. Where this methanol was sent to I do not know, nor did I mention it here.

Q.- Can you tell me now whether the methanol which you refer to is for motor fuels and you say you got those figures from the Sales Department of the chemical department in Frankfurt. The Sales Department, is that right?

A.- Yes.

Q.- Would you tell me whether this methanol for motor fuels went to the Wehrmacht for the use of its motorized Army?

A.- I cannot tell you that because the Sales Combine writes about the production and not about the sale.

Q.- The Sales Combine writes about the production and not the sales, is that what you say?

A.- Quite correct. You read it yourself, didn't you?

Q.- I am asking you. I do not read German and you know that. I am just asking you about your own document.

A.- Yes, the Sales Department writes about the production and not the sales, is that what you say?

A.- Quite correct. You read it yourself, didn't you?

Q.- I am asking you. I do not read German and you know that. I am just asking you about your own document.

A.- Yes, the Sales Department writes about the amount of production.

Q.- Would this be a fair statement, then? I will withdraw that. Is it a fact that the methanol included in your chart which you say was for motor use, is it a fact that a substantial part of that methanol was produced for the needs of the motorized Wehrmacht?

A.- I cannot tell you that because I am not a salesman. I am an engineer, a plant engineer.

Q.- Do you know whether or not, at the time the methanol production

of I.G. Farben was increased, that the extent of the increased production was discussed between I.G. Farben officials and the officials of Army Ordnance Office? Do you know that?

A.- I don't know anything about that.

Q.- Have you seen the Prosecution documents in this case setting out the minutes of discussions between the Army Ordnance Office and I.G. Farben in connection with —

DR. FIABCHNER: I must object against this question by the Prosecutor. The subject under discussion here is the chart which the witness added to his affidavit. Whether the witness knows Prosecution documents or not is of no importance for the questions which are to be clarified here. The question goes far beyond the scope of cross examination, and therefore is inadmissible.

MR. AMCHAN: It is not sufficiently important to argue the point.

BY MR. AMCHAN:

Q.- Can you tell me, Mr. witness, whether the methanol which you say was produced for motor fuels was in fact used by the Wehrmacht?

A.- I cannot say that from my own knowledge because I have already said that I do not know whether the Wehrmacht bought methanol. But I do not believe that the Wehrmacht had to use synthetic fuel. They left that fuel for the civilian users.

Q.- Well, if you don't know, there would be no point in your undertaking to tell us.

I am very much interested in what the methanol for motor fuels means in your document, and to be sure I understand you, first, you don't show what the methanol was used for, is that right?

A.- I show for what purpose the methanol was produced.

Q.- How could you tell for what purpose it was produced if you don't know what it was used for?

A.- Because the use depended on the quality, and because the quality

is determined in production. If I make methanol for fuel, then its quality is different than the methanol which I produce for chemicals. Then fuel methanol cannot be used for further chemical purposes.

Q.- Now, this methanol that is made for motor fuels, would you have to make a different kind of methanol for motor vehicles operated by the Army or would it be the same methanol that is used in the operation of civilian motor vehicles?

A.- I believe that it does not matter to the motors whether they are contained in a military vehicle or in a private vehicle, where civilians or soldiers are sitting in the front.

Q.- Well, let's turn to your Bustefisch Document 181. Just tell me just what that chart is supposed to show. It is headed, "Accounting of Costs and Production for Louna Gasoline". First, just go through the list.

A.- You said 181, did you?

Q.- 161. Have you got that document in front of you? Now is that supposed to show the costs per unit for the production of synthetic gasoline?

A.- No.

Q.- What does it show?

A.- It shows the expenses for imported gasoline.

Q.- I am sorry, I don't understand what that means. Will you try again?

A.- Those are the expenses for gasoline which has been imported from America and other countries which have oil, and was imported to Germany?

Q.- First, does it show the prices of imported gasoline in Germany?

A.- Yes.

Q.- Alright, take the year 1933. What price do you show for imported gasoline?

A.- The price is combined from three things. The ZIF price, that is the ZIF price which is free to the harbor in Germany; then, added is the customs duty and added to this is the expense for the legal addition of

Sprit. The law has ruled that Sprit is to be added to gasoline.

Q.- Alcohol?

A.- Yes, that is alcohol.

Q.- Alright. Now give me the total figure and break it down. We are talking about 1933.

A.- The chart shows that the total expenses were approximately 26 pfennigs per liter. Of this, about 6 pfennigs were ZIF price, approximately 16 pfennigs were duty and 4 pfennigs was the expense for adding alcohol, Sprit.

Q.- Now, what did you do in your chart? Did you compare the costs of the imported gasoline with the production costs of Farben synthetic gasoline? Did you do that?

A.- On this chart, only the prices for imported gasoline are contained. On a later chart, document 160, there are listed the prices for synthetic gasoline.

Q.- Before we leave 161, is this a correct understanding of the chart. You have only undertaken to break down the cost figures for imported gasoline, is that right?

A.- Yes.

Q.- Now, very briefly, tell me what date did you use in compiling that chart?

A.- There is a handbook of the German Mineral Oil Economy by Thuemen, of the year 1939.

Q.- The book you refer to in your affidavit?

A.- Yes.

Q.- Is that the only book which you used upon which you compiled this chart?

A.- The information in the book of Thuemen referred only to the time up to 1933. For the years before 1933. Thuemen must refer to after 1933. For the figures before 1933, I used statements concerning the ZIF

prices and about duty for the years before 1933.

Q.- Alright, let's move on to Bustefisch Document 160. That is your cost and Profit condition for Louna gasoline. Is that it?

A.- Yes.

Q.- Now, tell me what do you show with that document?

A.- They listed the comparative costs compared to the previous chart.

Q.- First take 1933. Show me what figures you show and tell me how you got those figures.

A.- In 1933 the value, that is, the cost of production of synthetic gasoline in Louna amounted to 22 pfennigs. That is the blue space on the chart. This figure originates from the books of the Sales Bookkeeping Department for nitrogen and oils in the central office of Farben in Frankfurt.

Q.- Let me understand you. This figure of 22 pfennigs for 1933 you took from the report of the I.G. control office compiled in Frankfurt, is that right?

A.- This was not a special report, but these are the normal bookkeeping books of the control office.

Q.- It is the I.G. Farben control office?

A.- Yes.

Q.- Which is operated under the authority of the U.S. Army?

A.- Yes.

Q.- O.K. Now, after the 22 pfennigs, go ahead.

A.- For synthetic gasoline an extra expense was added on the original production price, the so-called mineral oil tax, and for the addition of Spirit alcohol. That is the green space.

Q.- How much?

A.- $2\frac{1}{2}$ pfennigs in 1933. This figure also originates from the books of the control office.

Q.- Mm, Hm, And what is the total price you got for the cost to Farben of synthetic gasoline in 1933?

A.- In that case, this amounts to 24.6 pfennigs per liter.

Q.- Now then, is this a fair understanding of your chart 161, as against 160, namely, you are showing graphically that the cost to Farben to produce synthetic gasoline in 1933 was 24½ pfennigs, as against the cost for gasoline from abroad which you fixed at 26 pfennigs for 1933. Is that a fair statement of the meaning of the two charts?

A.- Yes, except for a small limitation. The tax and the cost for addition to the gasoline, or the actual production costs. If one could say not the production cost, but the costs when the gasoline is ready for sale is 24 or 26 pfennigs respectively.

Q.- Sorry, I don't understand you. You got one figure as to what the cost is at the factory. I am talking now about the cost to Farben for its own production. You got 22 pfennigs, that's the cost to Farben and to its own factories?

A.- Yes.

Q.- Then you have added on a tax of 2½ pfennigs?

A.- Yes.

Q.- Now, the total of 24½ pfennigs, what do you want to designate that as?

A.- That is the cost for the gasoline ready for sale.

Q.- From the plant?

A.- One cannot say that absolutely because the addition of Sprit alcohol did not always have to be added in the factory. It could have been added in some other place, but that makes no difference in practice.

Q.- Now, is this a fact ... I will withdraw that. Can you tell me the purpose of introducing these two charts in your affidavits, Buete-fisch 160 and 161? What is the nature of the comparison you seek to make?

DR. FLAEDHSNER: I object to that question. It is the task of the defense to decide what they want to prove and why they want to submit documents. The witness did not submit any documents, but Defense Counsel did and Defense Counsel only needs to know why he feels that he should submit a document and what he wants to prove by it, but it is not permissible to ask a witness why that document was submitted.

BY MR. AMCHAN:

Q.- On this 1933 figure where you fixed the price of imported gasoline did I correctly understand that of the total cost of 26 pfennigs, 16 pfennigs constitutes an import duty tax imposed by the German Reich, is that right?

A.- Yes.

MR. AMCHAN: We have no further questions to this witness.

THE COMMISSIONER: The Court will adjourn.

MR. AMCHAN: Yes, I think I have one formal announcement to make before we adjourn. The witness Schmidt who was examined last week as an affiant on behalf of the Defendant Schmitz and all the Defendants in connection with the A.G. was scheduled to have his examination continued this afternoon. I have been informed by defense counsel that due to an unavoidable delay on behalf of one of Defense Counsel that due to an unavoidable delay on behalf of one of Defense Counsel, they will not be able to examine the witness today. Under the circumstances, the Prosecution agrees that his further examination be deferred until such time as the Prosecution and the Defense can agree on a date.

THE COMMISSIONER: Very well. We will recess until 1:30.

CERTIFICATE OF COMMISSIONER

Under directives of United States Military Tribunal No. 6, testimony of witnesses listed below was required to be taken before the undersigned Commissioner. Pursuant thereto the said Commissioner has conducted hearings at which the following witnesses have fully testified:

<u>Date</u>	<u>Name of Witness</u>	<u>Official Transcript</u>
8 April 1948	Walter Warlimont	10875-10907
9 April 1948	Kurt Krueger	11128-11163
12 April 1948	Karl Weber	11165-11175
12 April 1948	Paula Ester	11177-11199
13 April 1948	Ernst Struss	11293-11338
14 April 1948 &	Christian Zahn	11444-11490
15 April 1948	" "	11587-11612
16 April 1948	Bernhard Schoener	11706-11723
19 April 1948	Adalbert Feindal	11827-11841
20 April 1948	Josef Grobel	11842-11860
20 April 1948	Gustav Pistor	11861-11878
21 April 1948	Emil de Haas	12098-12128
21 April 1948	Heinrich Schuh	12129-12140
23 April 1948 &	Heinrich Schindler	12337-12370
28 April 1948	" "	12707-12777
26 April 1948	Walter Kikuth	12461-12498
26 April 1948	Hans Bauer	12500-12512
27 April 1948	Wilhelm Duellberg	12598-12621
29 April 1948	Theo Goldschmidt	12871-12909
29 April 1948 &	Anton Reithinger	12910-12953
30 April 1948	" "	13075-13092
29 April 1948 &	Rudolf von Spratty	12954-12960
30 April 1948	" "	13065-13075
30 April 1948,	Rudolf Schmidt	13093-13133
5 May 1948 &	" "	13620-13629
6 May 1948	" "	13651-13719
3 May 1948	Wolfgang Alt	13246-13269
3 May 1948	Carl Gadow	13271-13291
3 May 1948 &	Kurt Hartmann	13292-13316
4 May 1948	" "	13412-13450
4 May 1948	Fritz Dion	13450-13460
4 May 1948	Kurt Eiefeld	13461-13479
4 May 1948	Adolf Taub	13480-13489
5 May 1948	Ernst Struss (for Pros.)	13566-13619
6 May 1948 &	Werner Schnitz	13720-13735
7 May 1948	" "	13861-13891
10 May 1948	Max Winkler	14173-14181
10 May 1948	Fritz Hirsch	14195-14209
10 May 1948	Ernst Kreschewski	14210-14220
10 May 1948 &	Franc Fuerstenberg	14221-14245
11 May 1948	" "	14377-14384
11 May 1948	Heinz Savoleberg	14387-14424
11 May 1948	Karl Xunscheidt	14425-14439
11 May 1948	Reinhold	14440-14455
10 May 1948	Friedrich Selcher	14482-14494


During the said proceedings the following exhibits have been offered in evidence:

PROSECUTION EXHIBITS

<u>Exhibit</u>	<u>NI No.</u>	<u>Official Transcript</u>
2302	PS 2353 C	10899
2303	179	10904
2304	11036	11145
2305	11034	11182
2306	15070	11183
2307	11236	11302
2309	11232	11312
2311	15062	11327
2312	15063	11330
2314	11257	11468
2315	13524	11473
2316	11256	11473
2317	11251	11485
2318	11252	11476
2319	11014	11482
2320	11039	11834
2321	13084	11848
2328	10532	12615
2329	10528	12616
2323	10907	12706
2330	13525	12733
2331	15021	12878
2332	3763	12915
2333	15115	12921
2334	15116	12923
2335	8647	12927
2336	15132	12933
2337	1514	12942
2338	11408	13106
2339	13534	13111
2340	15215	13126
2341	15260	13620
2342	15173	13286
2345	7637	13728
2346	7666	13730
2352	15290	14382
2353	15296	14392

I, the undersigned Commissioner, do hereby certify that the aforesaid official transcript pages comprise a full, true and correct report of such proceedings, testimony and evidence heard and recorded therein before me.

Dated at Nurnberg, Germany, May 28, 1948.


 JOHNSON T. CRAWFORD
 Commissioner of Tribunal No. 6

AFTERNOON SESSION

THE MARSHAL: The Commission is again in session.

DR. FLACCHNER: Flacchsner for Baetefisch.

REDIRECT EXAMINATION

DR. KURT MARTIN

BY DR. FLACCHNER:

Q. Witness, you mentioned that as a basis for your compilation of the costs in the gasoline field, you mentioned a plant Thyssen. Will you please tell the court who Thyssen was and why the yearbook which he published is an authentic source?

A. Thyssen, as can be seen from the preface to his book, was a Referent in the Reich Ministry of Economics. He was concerned with questions of mineral oil. His handbook is a semi-official publication.

Q. I now come to your affidavit 228. You said before, when answering questions of the Prosecutor, that you got the data about the methanol consumption for the production of toluol from a Dr. Beck. Was this in your opinion a reliable source from which to get such figures? First of all, answer that.

A. In my opinion, this was the most suitable source since actual figures about Waldenburg are no longer available in Germany.

Q. Were you able to check these figures which were given to you?

A. Waldenburg was subordinate in a certain respect to the plant management of Oppau, and at their request I looked after Waldenburg. In other words, I was familiar with the conditions at Waldenburg and therefore I was able to determine that the data of Dr. Beck agreed with my own recollection.

Q. In the cross examination you mentioned an affidavit of Dr. Schnurr. First of all, are the data which Dr. Schnurr made in this affidavit reliable in your expert opinion.

A. Dr. Schnurr was probably the best expert for hexogene production and thus he had to have the best insight into the production conditions.

Q. Witness, did you know in the Sparto office how much nitrogen and

how much methanol went into the production of explosives?

A. No. I got these figures now on the basis of the documents which I mentioned. The Farben agencies at that time could not know specifically what went into the consumption of explosives because the explosive firms, those who produced explosives, did not list in their orders for what purpose they were ordering and, as is well known, these firms also produced other products outside of explosives.

Q. May I finally ask you this: In making out the tables which you attached to your affidavit and which are contents of your affidavit did you check the figures and the material as carefully as you were able to do?

A. Yes, I did.

DR. FLAENSCHER: No further questions.

Mr. Commissioner, may I ask that the defendant Buotofisch be returned now to the main court room because he has to be present during the proceedings there.

THE COMMISSIONER: As soon as the questioning is finished.

MR. AMERMAN: I have some further redirect, and it is all right after that to release him.

THE COMMISSIONER: As soon as the Prosecution is finished, he will be ordered to go back.

RECROSS EXAMINATION

DR. KURT BARTMANN

BY MR. AMERMAN:

Q. Now, Mr. Witness, Counsel asked you about the letter from Dr. Beck that you testified to and the affidavit of Dr. Schmurr that you testified to. Now, those two documents you used as a basis for compiling your chart, Buotofisch 228, is that right?

A. That's right.

Q. And you also said you checked very carefully the data which Dr. Schmurr and Dr. Beck gave you, is that right?

A. I said that I was not able to check the data of Dr. Schnurr because I'm not an expert on explosives and because I had no such figures for explosives available, that's why I had him give them to me. But I could be convinced of the fact that Dr. Schnurr, being the expert for homogene, was in a position to give me the correct figures.

Q. But you did not check his figures, is that right? Dr. Schnurr's figures?

A. I could not check them.

Q. Did you check Dr. Beck's figures?

A. I just said that I could compare them with those in my own recollection and I remembered the same figures.

Q. Now, with respect to Dr. Beck's letter, do I correctly understand your testimony to have been that Dr. Beck gave you his own recollection of the figures in that two-page personal letter that he sent you in his own handwriting and that he did not include in that letter any documents of any sort? Is that correct? Did I correctly understand your testimony?

A. That's right.

Q. Do I understand your testimony now to be that the recollection which Dr. Beck gave you as to the figures, as far as you can see it, coincides with your recollection of the figures? Is that the substance of your testimony?

A. Yes, that's correct.

Q. You did not have any official records or documents before you with which to check Dr. Beck's recollection as to figures, did you?

A. I had the report of Dr. Alt, which represents a program of production and which agreed with mine and Dr. Beck's memory.

Q. Now this Dr. Alt's document that you mentioned, is that the document about which you testified that you found at Ludwigshafen?

A. That's right.

Q. And that is the document that referred to the estimated demand and not the actual demand, is that right?

A. Yes, I said that.

Q. Now to close this hearing, would you have any objection of putting in the record the affidavit or letter of Dr. Beck and the affidavit of Dr. Schnarr upon which you rely? Would you object to that?

DR. FLAENDERER: An absolutely inadmissible question to the witness. The witness neither has to raise objections nor do anything else. That's a matter for the Defense to do. The viewpoint of the Defense is clear. I stated it this morning in so much detail that anything else would be repetition.

MR. ALCHAN: We'll withdraw it in view of the statement of Defense Counsel; no more questions.

THE COMMISSIONER: The witness will be excused.

(The witness was excused.)

DR. TRABANDT: Dr. Commissioner, Trabandt for the defendant Duerrfeld. As the first witness requested by the Prosecution for cross examination, I ask that the affiant Engineer Fritz Dion be called in.

THE COMMISSIONER: The Marshal will call the witness.

DR. TRABANDT: The affidavit of Dion is in Book 5 of the Duerrfeld volumes. It is Duerrfeld Document Number 783, Exhibit 92, page 56 of the Document Book.

FRITZ DION, a witness, took the stand and testified as follows:

THE COMMISSIONER: Is Counsel ready for the witness to be sworn?

DR. TRABANDT: Yes, I'm ready.

THE COMMISSIONER: The witness will raise his right hand and repeat after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will omit and add nothing.

(The witness repeated the oath.)

THE COMMISSIONER: You may be seated.

DIRECT EXAMINATION

FRITZ DION

BY DR. TRAMMONT:

Q. Witness, for the record, please give your exact name.

A. Fritz Dion.

Q. Will you please spell your last name?

A. D-I-O-N.

Q. Will you please give your present residence?

A. Marburg on the Lahn River, Frankfurterstrasse 24.

DR. SEIDL: Now, Witness, Dr. Seidl for Dr. Duerrfeld.

DIRECT EXAMINATION (continued)

BY DR. SEIDL: (for Duerrfeld)

Q. Mr. Dion, will you please give your birth date?

A. 1st of June 1895.

Q. Now I would like to ask you to give the Commissioner a brief description of your life.

A. I attended high school and graduated from it. Then I attended the Technical University at Darmstadt. After I passed my examination I had positions in the August Thyssen Hütte in Hamborn, in the company for film production in Wolfen; in the Kali works in the South Harz Mountains. Then in the Farben Company; first in the Dormagen plant; then from 1931 in the Leverkusen Plant. From May 1940 I was with Dynamit A.G. End of May 1942, in the Wehrmacht until September 1943, when I was put on leave in order to repair the rubber and cement factory in Mannheim. Then on the 18th of April 1944 until 15th December 1944 I worked as a labor engineer in Auschwitz.

Q. Now, Witness, you said that you were labor engineer in Auschwitz. You signed an affidavit for the Defense which is dated 4 November 1947, is that correct?

A. Yes.

DR. SEIDM: Mr. Commissioner, this affidavit is in Document Book 5 for the defendant Duerrfeld. It is on page 56. The Document Number is 783 and the affidavit was submitted with the Exhibit Number 92.

Q. Mr. Dixon, did you read through the affidavit once again?

A. Yes.

Q. Do you have anything to say about this affidavit, to correct, to add, or to explain?

A. Yes.

Q. Will you tell us in what paragraph?

A. That is paragraph 8.

Q. Does this have any connection with the proceedings which are pending before a de-Nazification Board?

A. Yes.

Q. All right, then I think it would be proper for me to ask you a few more questions in this connection which concern themselves with your political past.

Now, first of all, Witness, were you ever a member of the Nazi Party?

A. No.

Q. Was a de-Nazification proceeding carried out against you?

A. Yes, it's still pending, because of the appeal.

Q. Now, you say that you were not a member of the Party but that a de-Nazification proceeding was carried out against you? What was the cause for this proceeding? What was the reason for it?

A. Because I was labor engineer in Auschwitz, that's why I was called before the de-Nazification Court.

Q. During those proceedings, did you have to give statements about conditions in the Auschwitz-Farben plant and especially about the labor conditions prevailing there?

A. Yes. I was mainly asked about those rumors which were current everywhere, and I was astonished that I did not know before what was going on in Auschwitz. And in connection with that many questions were asked which I did not see as facts, did not hear as facts and therefore I did not list them here under paragraph 8.

Q. Pardon me for interrupting you. You mean paragraph 8 of your affidavit?

A. Yes.

Q. The one which you gave the Defense in this trial?

A. Yes.

Q. Well, what can you tell us about the additions to paragraph 8? And what did you tell the de-Nazification Court?

A. They absolutely wanted to know about the mass killings. They said that I must have known about them, and I said, "No, nothing was said about it to anyone." Only in July 1944 far away from the plant West of it something was burning; you could see a large column of smoke there and I heard a conversation at the dinner table, "Today again corpses are being burned." Other people said that it is out of the question; that can't be possible. Laundry or something else is being burned because of an epidemic. And still others said, "It's impossible that corpses have such a sweetish odor." These statements and others were asked about. Since I did not see that and since I found it incredible I did not state it here in the affidavit.

Q. Mr. Dion, the concentration camp Auschwitz, which was 8 kilometers west of the Farben plant, was, together with the Concentration Camp Birkenau, a tremendous concentration camp with tens of thousands of inmates. As such, it would not have been something extraordinary if there had been relatively many death cases in case of epidemics?

A. Well, it's possible.

Q.- Now I want to ask you, did you gather from these uncontrollable rumors in 1944 at any time that there is something true about these rumors and that there might be something to them?

A.- No, I had absolutely no indications for that and it was not discussed among colleagues. I did not hear about these matters until after the collapse.

Q.- And that is what you wanted to add to Par. 8 of your affidavit?

A.- Yes.

Q.- And otherwise you have no corrections to make in your affidavit?

A.- I wouldn't know of any.

Q.- Then I have no further questions, Mr. Commissioner.

CROSS-EXAMINATION

BY DR. MINSKOFF:

Q.- Mr. witness, just to get the record straight on this Paragraph 8, what you just told the commission about the additions you wanted to make to Paragraph 8, they consisted, did they not, of the things you told the Spruchkammer in your own defense? Isn't that right?

A.- Well, I can not call that a defense because I was generally asked about these things, and it was not a matter of defense insofar as they put to me that because of the use of concentration camp inmates crimes against humanity had been committed.

Q.- Now the point I am trying to get to is, you, as a person who was in charge of labor allocation, were asked specifically whether you knew about the atrocities committed against the inmates, and about the mass murders at Auschwitz, and at that time when you were asked that question you said you knew nothing about it, except now as you have modified it by the rumors you heard in 1944, isn't that right?

A.- Yes, because I didn't see anything of these things when I was there and no one told me about it. In that respect it is correct.

Q.- Mr. Witness, you were at Auschwitz from April 1944, until the end, is that right?

A.- Not quite until the end, On the 15th of December, 1944, I was sent to the hospital because of stomach ulcers. That is, to the hospital at Auschwitz.

Q.- Let me ask you this in connection with the statement you have made in your affidavit that you never heard of workers who collapsed or died while working. In your position, if workers — if, say, fifty workers died — not collapsed, but actually died — on the construction site during the time you were there, would that come to your attention?

DR. SEIDL: Objection. I object to the question. In the affidavit of the witness there isn't a single word to the effect that he saw people collapse on the construction site, or that any one might have collapsed on the construction site, or that he even heard about it through rumors. This is a claim wholly taken out of thin air and there is no basis for it in the affidavit.

MR. MINSKOFF: Perhaps Dr. Seidl didn't understand the question. The witness has stated in his affidavit that during his presence he never heard of workers who collapsed or even died while working. Now the question that I am asking him is that in the position that he held as person in charge of labor allocation, if some fifty workers would actually die on the construction site, would that come to his knowledge because of the position that he held?

A.- Yes.

THE COMMISSIONER: If you are both satisfied with the record then, I will let him go ahead. He may answer it.

Q.- Thank you, sir. Now, Mr. Witness, of the various groups who were on the construction site, like the foremen, the masters, the capos and the other supervisory personnel, which group would you say from your own per-

sonal observation was most harsh to the inmates? If any?

A.- I can't answer that question.

DR. SEIDL: I object to the question. In my opinion he would first have to ask another question, namely, whether any group at all was harsh against the inmates.

MR. MINSKOFF: Let me reword that question, Mr. Commissioner.

Mr. Witness, speaking of the Capos, was it your observation when you were at the I.G. Auschwitz site, that the Capos always treated the inmates very well?

A.- Normally, yes.

Q.- Was it your observation that the attitude of the Farben foremen and masters was even better than that of the Capos towards the workers? Towards the inmates?

A.- Certainly, because the inmates were less supervised by our own people, but they were constantly supervised by the Capos.

Q.- Did you ever, during the time you were there, notice any Capo strike any inmate?

A.- No.

Q.- Mr. witness, where on the I.G. site were you personally located?

A.- I was in an office outside of Farben.

Q.- Where was that located?

A.- Directly near the gate. That is, in front of the fence around the actual plant; and every day I made my observation tours around the plant, always at a different place, because one could not cover this large place all in one trip.

Q.- Mr. Witness, did you, before coming here today, have an opportunity to read any of the defense affidavits concerning conditions at Auschwitz?

A.- No.

Q.- Mr. witness, if in 100 or more of these affidavits they all state that the Capos were the ones who beat the inmates, would you say that is contrary to your observation?

DR. SEIDL: Objection. I object to this question. It is based on a fact which does not follow from any evidence in the trial. If anything can be gathered from the many affidavits of the defense, then it is the fact that the inmates were generally not struck by the Capos. Furthermore, I object to the question because it evidently has a conclusion as its basis.

MR. MINSKOFF: If Dr. Seidl wants to stipulate that the Capos were not the ones who beat the inmates, the Prosecution will be happy to so stipulate. I take it there is no such stipulation. Mr. witness, in your capacity —

DR. SEIDL: I believe that in interrogating this witness one must consider particularly, in treating this subject, that the witness only came to Auschwitz in 1944, and therefore there is no purpose in confronting him with hundreds of affidavits which extend over a period of three and a half years.

Q.- Mr. witness, during the time that you were in I.G. Auschwitz, you were faced, were you not, with the problem of increasing the efficiency and the out-put of the inmates, isn't that true?

A.- That is right.

Q.- Now, in order to increase their efficiency and their output, did you suggest that the way to increase their output was to increase the number of Capos?

A.- I did not suggest that, and I never heard anything about it.

Q.- Is it your testimony, Mr. witness, that you personally never attended a discussion, the purpose of which was to take measures to increase the output of the inmates, wherein it was agreed that one of the means which could be used, or which should be used, was to increase the number of Capos and such supervisory personnel as Capos?

A. At one occasion mention was made of this, on such construction sites which were very widespread and extended the supervisory personnel should be increased.

Q. Mr. Witness, are you sure that when the discussion you are referring to now took place, that that limitation which you are now telling the court was also contained in that discussion? In other words, the limitation that only on places where they were far separated should they have more Capos?

A. Yes.

DR. SEIDL: I don't want to object to the question formally, but it still seems proper to me to tell the witness which conference and which discussion are meant here.

Q. The witness has not indicated that there was more than one discussion. If he wishes to so indicate, I would be happy to hear the testimony. Was there more than one discussion which you attended where it was suggested to increase the number of Capos to increase the efficiency of the inmates?

A. Certainly there were more conferences, and it was my personal opinion that the supervisory personnel in general was very inadequate, not only in the case of inmates and Capos, but also for the German personnel.

Q. Now, Mr. Witness, I don't want any confusion in this record. I am just speaking now of a discussion where you were speaking of the working efficiency of concentration camp inmates, and suggestions were made to increase that working efficiency of concentration camp inmates. And now I asked - this last question was: did you attend more than one discussion where it was agreed that the way to increase the efficiency of concentration camp inmates was to increase the Capo supervision?

A. I can not exactly state whether there were one or more conferences, but it was discussed several times, I know that much.

Q. In other words, the suggestion was made a number of times that the way to increase the concentration camp inmates performance was to increase the Capo supervision? That is correct, isn't it?

A. The suggestion was made, yes.

Q. Now, Mr. Witness, there was also another suggestion made to increase the work performance of the inmates, and that was that the inmates be divided into three groups, according to their performance, and the ration scales should be adjusted accordingly. Now isn't that correct?

A. I don't know that.

DR. SEIDL: Just a minute. I believe the translation was not quite correct in this case and I think it might be well to repeat the question with a correct translation.

THE COMMISSIONER: Very well. The question will be repeated.

Q. The question was: Isn't it true that there was a second suggestion agreed upon at a meeting which you attended to increase the work performance of inmates, and that suggestion was that the inmates be divided into three groups in accordance with their work performance and the ration scales - the ration scales would be adjusted accordingly?

DR. SEIDL: I object to this question. I object to it because the Prosecution knows exactly that this division did not refer to inmates, but to civilian workers, especially the Eastern workers.

MR. MINSKOFF: Now, Mr. Commissioner, I think it is highly improper for Dr. Seidl to testify, particularly when he testifies incorrectly. I am reading from a document which is now offered in evidence, - which has been in evidence, it is NI 11,145, where they speak of concentration camp inmates, and not of other workers, and that is in Part 3 of the document, and any suggestion by counsel that it contains other references than that, I think, is highly improper. Now, if the witness understood the question, I would appreciate his answering it.

A. I can not remember.

Q. You don't remember any ration differences based upon work performance being made in connection with increasing the performance of concentration camp inmates? Is that your testimony?

A. No, it was merely a question, and this was later carried out of giving those inmates an additional ration who worked according to wages based on work performance.

Q. Mr. Witness, I show you NI 11145 which is presently in evidence as Prosecution Exhibit 1515, and I call your attention particularly to Paragraphs A and B. (A) shows the suggestion that they have increased Camp supervision, and paragraph (B) says concentration camp inmates were to be divided into three groups, according to their performance. Ration scales being adjusted accordingly. Now, does that refresh your recollection as to the agreement reached at that time at a meeting which you attended?

A. I can not remember.

Q. Thank you. No further questions.

REDIRECT EXAMINATION

BY DR. SEIDL:

Q. I have only one question to ask the witness. Mr. Dion, you were asked about this denazification proceeding, which led to an addition to paragraph 8 of your affidavit. I want to ask you this: what result did this denazification proceeding have?

A. I was convicted — I was put in group 4, as a "fellow traveler".

Q. Thank you.

THE COMMISSIONER: Any further questions?

MR. MEDSKOFF: No further questions, Your Honor.

THE COMMISSIONER: The witness will be excused.

DR. SEIDL: Mr. Commissioner, the Witness Elsfeld is ready to be examined.

DIRECT EXAMINATION

BY DR. SEIDL:

Q Witness, you made out an affidavit for the defense, which was signed 5 November 1947, is that correct?

A Yes, I signed that affidavit and I made it out.

Q This affidavit was put into Volume IV of the Duerrfeld books. It is Duerrfeld No. 687 and is on Page 1 of the Document Book. It was offered as Exhibit 69. I have a few additional questions to ask you, Dr. Eisfeld. First of all, I want to ask you to give your full name and your birth date.

A Kurt Max Ernst Eisfeld; I was born on 12 January 1904 in Grueningen.

Q Now in a few sentences, please tell the Court about your life and about your profession.

A I am the son of the physician, Dr. Eisfeld, in Grueningen, and after going to grammar school in Grueningen I went to Halberstadt to attend high school there. I graduated there and from 1922 until 1928 I studied chemistry at the University of Jena. Then I was an assistant at the Chemical Institute of the University for six months, and Easter 1929 I joined Farben in the Hoechst Plant. There I first worked in the scientific laboratory, in the cellulose field, ester and ether plastics. Then I was assistant in a dye plant for a short while. Then from 1936 until 1938 I joined the central administration in Frankfurt in the TEA office, and in the middle of 1938 I went to the Ludwigshafen-Farben Plant. There I became a chemist in the LK Department and had to manage a plastics plant until the outbreak of the war. I was drafted and after four weeks I was deferred by Farben from army service, and then I started to work with Dr. Ambros where my assignment was to plan the third buna plant. The third buna plant was to be constructed in Rattwitz. The preliminary work was begun, but in June 1940 it was discontinued again. I went back to the LK Department and I again was ordered to plan a third buna

plant in the fall of 1940 after I had carried out the planning work for the buna plant in Ludwigshafen. At the end of January, I received the assignment to concern myself with the fourth buna plant, and from that time on, I continued the planning and organizational work of the chemical phase of the buna plant at Auschwitz. In April 1941, I was appointed plenipotentiary (Handelsbevollmächtigter) and then Prokurist in 1942 for Farben, and in April 1944 I was appointed a director of I. G. Farben. After the buna plant started operating, I functioned as the director of the buna plant at Auschwitz until the plant had to be evacuated in January 1945. After returning to Ludwigshafen, I took care of winding up the Auschwitz affairs and in March and April I received a new order to build a subterranean buna plant, and for this reason I was sent to Upper Bavaria. There I was when the collapse occurred, and Farben dismissed me, and I have been working in agriculture since.

Q Now, Dr. Bisfeld, you have described your life and your various positions. In your affidavit there is nothing about your political past. Therefore I want to ask you whether you were a member of the Nazi Party and whether you belonged to any formation of the Nazi Party.

A I belonged to the Nazi Party.

Q Since when?

A Since May 1933, and I was in the General SS also from May 1933 until the end of 1933. Then when I moved to Ludwigshafen, I just dropped my activity in the SS, paid no more membership dues, did no more service, and no longer wore my uniform, not even on special occasions. I held the rank of an SS-Oberscharführer.

Q You, of course, exercised your activity in the SS apart from your professional activity?

A Yes, of course.

Q You said that you held the rank of an Oberscharführer. Does this approximately correspond to a corporal in the American army?

A I don't know the ranks in the American Army exactly but I think that this probably corresponds to this rank.

Q Now I want to ask you what reasons caused you to join the SS in 1933 after the Nazis took over and why you didn't join a different formation, for example, the SA or the NSKK, or some other unit?

A Until 1933 I was not politically active and I felt uninclined to join the Nazi Party after I did not vote for Hitler. I was persuaded by a good friend of mine not to refuse to cooperate and to work along in the building up of the German people. I finally declared myself ready to do so but with grave misgivings. I didn't go to the SA because of the discipline there, and the whole thing wasn't the way it was in the SS, where there was an orderly and disciplined impression, and you found more of the intelligentsia there.

Q Now I want to ask you about the affidavit which you signed on the 5th of November 1947 and I want to ask you whether you have anything to add or correct in this affidavit.

A I read the affidavit and I have nothing to correct.

Q Then I want to ask you a few additional questions. You say under Paragraph 4 that the camp administration protested against the undignified treatment of the inmates at the beginning. Do you know anything about that? I made a mistake. I meant of course the plant management. Now I want to ask you, do you know anything about that? Do you know that the plant management very early had issued a general prohibition against mistreating anyone on the construction site physically, no matter whether these were free German workers or foreign workers or inmates?

A It was generally not customary in Farben that workers were beaten, and for this reason it was of a matter of course for Farben and Auschwitz that workers not be beaten physically. As I was told by the engineer Faust, beatings of inmates are supposed to have

happened frequently in the beginning. I can exactly remember that the construction management, that is Faust and Duerrfeld, from the very beginning energetically opposed bodily punishment on the construction site and that they also had forbidden German workers and German supervisory personnel to beat anyone. Furthermore, in my opinion there was an order of the SS forbidding anyone to beat inmates, and if I remember correctly there was another case in 1944 where an I. G. foreman beat an inmate and this became the subject of a very detailed conference between the SS and the plant management.

Q Dr. Nisfeld, do you know that the plant management made efforts to employ the inmates according to their previous professions?

A Yes, I know this from reports of Dr. Duerrfeld that he constantly made efforts to use labor from among the inmates according to their own training.

Q Did you ever hear that the plant management pursued a policy that the output of the inmates was to be increased by threats, by driving them to work, or by force?

A No. I never heard about such a policy on the part of the plant management; on the other hand, I heard about the efforts of Dr. Duerrfeld who tried to increase the willingness and the output of the inmates by premiums and by additional rations. I don't know any details about the premium system because that did not belong to my job.

Q Did you make any observations about the working tempo of the inmates? Please tell the Tribunal about what you yourself observed in this respect when you walked through the plant.

A The work output was considered by the plant management to be 30 to 70 per cent of that of a normal worker. The inclination to hire inmates was not very strong on either side. Everyone tried to get free workers as much as possible. I never found

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anything about a particularly strict working tempo which authorities of the plant tried to apply to the inmates. The working tempo of the inmates was a normal one.

Q When you say the working tempo was a normal one, do you mean that it was normal according to their physical capabilities?

A Within the 30 to 70 per cent which I just mentioned.

Q You testified before when you got to Auschwitz. Did you also participate in conferences which the Main Department chiefs or other men of the plant management conducted at irregular or regular intervals?

A I have said in my biography that from 1941 I had to concern myself with the planning work in Auschwitz. About my work at Auschwitz, I haven't said anything yet. I finally settled in Auschwitz with my family in 1943. That was on the 31 of December. During the first years, I was in Auschwitz every two or three months, later every month, to inspect the construction site, and from the middle of 1933 on I was in Auschwitz at more frequent intervals.

Q Now please answer the question I asked you about the conferences.

A I participated in the so-called construction conferences and after I finally settled in Auschwitz, I also took part in the conferences with the main department chiefs as long as I was not on official trips or in Berlin.

Q Now I don't want to ask you about those construction conferences because the minutes of these construction conferences are available; on the other hand, I'd like to know from you how those main department chief conferences developed, especially in respect to the employment of the inmates. Did you gain the impression in these conferences that the plant management considered the employment of the inmates as something advantageous, or did you gain the impression that they were anything but happy about the employment of inmates?

A The employment of inmates was always a source of worry for the plant management, no matter whether these were inmates who are in a penitentiary or in a concentration camp for these are always

workers who are under force! In the beginning, this was especially strong because the SS guards were standing around the small site and therefore the plant management always tried to increase the physical liberty of the inmates, at least on the construction site; first of all, by fencing in certain construction districts and finally—and I can't give you the exact date, I estimate it was in the middle of 1942 or in the beginning of 1943—by a generous work fence so that the inmates on the construction site could move around freely, and at least during his working time he did not have the impression that he was under the direct supervision of the SS. I am of the opinion that through these measures the willingness and readiness to work of the inmates were considerably increased.

Q Didn't the plant management have the possibility to refuse the employment of inmates altogether, or do you know whether the employment of inmates had been ordered by the highest Reich agencies and that this order was binding on the plant management?

A As early as March 1941 the employment of inmates had been ordered by a directive which, as I gather from the distribution list in the document, was proposed by the Reichsmarschal and came from Himmler. I was of the opinion that the order was directly issued by Himmler and that the concentration camp Auschwitz was to furnish inmates in the construction of the plant at Auschwitz. The labor office Bielitz did not find it possible to furnish sufficient free workers so that the plant was forced to accept the employment of inmates. At no time did the construction management of Auschwitz find itself in any lesser urgency, and labor was always a very urgent question so that a refusal of the employment of inmates on the part of the Farben directors would have been considered as sabotage or refusal to obey an order.

Q Then I have a few questions concerning another matter. Did you ever hear that in Camp IV in which the inmates were housed, a selection of inmates took place according to their ability to work?

A I mentioned before that the employment of inmates proceeded according to their output and according to their professional qualification and training. I did not hear that there were any other special selections.

Q In other words, you specifically did not hear about so-called "selections," and you know exactly what the prosecution means by them?

A Through the newspaper reports about concentration camps, I heard what selections meant, and I can only testify here that I never heard anything about selections within Camp IV.

Q Now the prosecution claims that the extermination measures in the Birkenau Camp of the SS were generally known in the vicinity of Auschwitz, and I want to ask you, did you, during your presence in Auschwitz, ever hear that human beings were being systematically exterminated in Auschwitz or in Birkenau?

A Such a thing was never reported to me, and I neither heard Durrfeld nor Ambros nor any of their subordinates talking about it, and I did not hear that anything was said about it.

Q I have no further questions.

THE PRESIDENT: We shall be in recess for about 15 to 20 minutes.

(A recess was taken.)

CROSS EXAMINATION

BY MR. MINSKOFF:

Q. Mr. Witness, I am not quite certain that I understood your testimony with respect to the reason why you joined the SS. Is it your testimony that you only joined the SS in 1933 because you wanted to show your cooperation in building up Germany?

A. I said before that I had not been active in Party politics until then, and that I was not inclined to this after the battle of the elections was over and I had fought National Socialism. Through my friend with whom I studied I was persuaded to assist them.

Q. Now, Mr. Witness, in your affidavit, you speak of the importance of securing the labor necessary to build I.G. Auschwitz. You have also emphasized this morning, this afternoon that is, how important the labor problem was. Now, can you tell me just when you found out for the first time that the labor office in Bielitz could not furnish the number of free workers required?

A. If I remember correctly, Mr. Malacko, during the big meeting of the foundation in Kattowitz, had already objected to the fact that the required German workers could not be furnished.

Q. Do you recall whether that meeting was the meeting of 7 April 1941?

A. I cannot remember the exact date.

Q. Is that the approximate date?

A. It must have been in the spring of 1941.

Q. Now, Mr. Witness, before that time you, who were then in Auschwitz, had no reason to believe that there was a shortage of labor for the building of I.G. Auschwitz, is that right?

A. I cannot answer yes or no to that question. The labor situation in Germany was already so strained at that time that there were insufficient workers for some construction sites. In Silesia, there were still some workers available who were transferred to the Reich proper so that the best possibility of finding workers was in Silesia.

Q. Now, Mr. Witness, in the very early days when inspection trips were being made to determine whether Auschwitz was a suitable site, and reports of these trips went to you as one of the responsible engineers of I.G. Farben, the question of the necessary labor was discussed, was it not?

A. First of all, may I correct that. I am not an engineer at all, but a chemist, and I had nothing to do with the actual construction, but I was in charge of the chemical planning for the Auschwitz plant. In the circles of the construction meeting, the problem of the assignment of workers was discussed from the very beginning, and the necessity to get suitable workers was emphasized from the beginning.

Q. Now, Mr. Witness, you yourself attended the inspection trip made in the beginning of February, isn't that true? From the first to the 4th of February?

A. Yes.

Q. And during that inspection trip the terrain was studied and all the problems necessary to building the plant, isn't that true?

A. Yes.

Q. Now can you tell the Tribunal what source of labor you contemplated using at that time for the building of I. G. Auschwitz?

A. The workers were to be put at our disposal by the labor office, from the I. G. plants; that is from the entire I. G. Farben. Dr. Ambrose had stressed that we needed a great deal of support, because there were hardly any people from Germany properly qualified in that sphere.

Q. Mr. Witness, I am not speaking now about the actual chemical production which might take place several years later. I am speaking of the actual construction of the I. G. Farben factory at Auschwitz. What provision for labor was thought possible or was counted on by you and your colleagues for the actual building of I. G. Auschwitz?

A. They wanted to resort to the workers residing in that district and those from Silesia. Dr. Ambrose took the opportunity to talk to the Regierungspraesident, Springorum. He was informed there that Auschwitz belonged to the evacuation zone no. 1, and that the Jews and Poles were to be evicted from there. He protested against that immediately, because otherwise a great

vacuum would occur. I think he was successful, in that Regierungspräsident Springorum did his best and the Poles at least were not evacuated.

Q. Well, as a matter of fact, the small group that lived near Auschwitz, if you included all the Poles and Jews, could not possibly have been adequate for your purpose, could they?

A. I hardly think that the requirement for workers could have been satisfied from the people residing in that district alone. Other workers would have had to have been transferred to us. Especially since we had so little time, requests were made by a government agency that we had to see to it that sufficient workers would be available.

Q. In view of the fact that the total number would not have been adequate, you must have known that when all the Jews would be thrown out and the Poles would be evacuated, that there would be practically no one left in that entire area to build your plant, unless you contemplated using concentration camp inmates?

A. That the Poles were to be evacuated, I have already emphasized before, was not the intention of I. G. It was not the intention of I. G. to have the Poles evacuated, and that is why Mr. Ambrose objected to it very strongly, and he was successful so that the Poles remained in that district. In no place in Germany was there a possibility to construct such a large plant with the local population, but before this Tribunal, and under oath I can testify that when the construction site was inspected, and when a report was made orally before Committee K, the use of concentration camp inmates was not

mentioned, and no one ever thought of it because that would have been something positive. I had been given the task by Dr. Ambrose to emphasize anything positive for Auschwitz. If this had been a positive fact for us, then I would have had this entered in the record, because you can imagine that the other plants of Farbe n also criticized the planning which was in the hands of Ambrose. Decisive for the fixing of the site was only the economic point of view: The existence of the necessary water; this was the main thing we needed for the chemical industry, and that calcium, coal, and coke was available; Benzol, and methanol was also available there.

Q. Mr. Witness, you have gone very far afield in making a speech about why they chose Auschwitz, which we have heard several times before.

THE INTERPRETER: There is a technical hitch, if you will please interrupt for a minute.

A. I didn't understand the question because the microphone didn't work, I believe.

Q. Mr. Witness, it will be helpful, and will shorten the proceedings, if you will at least try to merely answer the questions, but without trying to give an entire defense in answer to each question. Now, the question I put to you was that if the Jews, which were the majority of the population, were to be moved out, even if the few Poles were left to work there, that would obviously be insufficient to build I. G. Auschwitz, and I asked what had you contemplated at that time to be done to get labor to do the actual construction work of I. G. Auschwitz?

A. If I am to answer that briefly, I can only say that that was not within my sphere of work, and that Dr. Ambrose and Dr. Duerrfeld dealt with those matters.

Q. Thank you, that is an answer. Now, Mr. Witness, you knew that on January 30th an inspection trip was made by Santo and Faust, which was reported to the defendant Ambrose, which is in evidence here as Exhibit 1412 for the Prosecution. The reports specifically stated that a territory of ten kilometers is reserved for the concentration camp settlement, and that the existing concentration camp of 7,000 inmates is to be enlarged, and that it will be possible after a conference with the Reichsfuehrer-SS Himmler to use the concentration camp inmates. Now, Mr. Witness, did you also at that time see that report?

A. May I have a look at that document? I do not remember it.

DR. SEIDL: I object to that question and I think it should only be admitted if the Prosecution gives the document to the witness and lets him read it, if they wish to refer to it. As far as I remember this statement is not contained in that document.

MR. MINSKOFF: We will be happy to show the German copy of the document to the witness, and repeat our question as to whether that refreshes his recollection -- no, pardon me. As to whether he even saw that document at the time he was considering Auschwitz as a site? You will find it on page 3 of the original.

A. May I comment on that? This discussion in Katowitz took place on the same day when I also participated in the inspection with Dr. Ambrose, Mr. Santo, Mr. Behdenkopf. Before the inspection I certainly did not see this document, and as to whether I saw it afterwards I can not say for certain, but I assume so.

Q. You notice your name is on the distribution list, Mr. Witness?

A. I did not deny that I did not read the documents afterwards. It was made on 10 February 1941.

Q. Mr. Witness, let me return to the meeting which you referred to, this K meeting of the 30 th of January 1941. Now, you stated a few moments ago that the question of the use of concentration camp inmates was never discussed. Now, can you tell us, Mr. Witness, just what the discussion concerning labor was at that meeting?... or whether they omitted it entirely?

A. It says in the record that the procurement of labor would cause difficulties, in particular because the settling of Germans seemed difficult to us, because the Reich Commissar for the Strengthening of Germanism, as we were told at the time, was the decisive authority about this, but we did not have clear instructions concerning this. I would like to emphasize that during the session of Committee K, on 30 January, the existence of the concentration camp was not mentioned.

Q. You know about it at that time, did you not?

A. That a concentration camp existed at Auschwitz?

Q. That is right.

A. I realized that during the inspection trip, either in Berlin, or during the trip from Berlin to Breslau, when Mr. Santo showed Mr. Ambrose and me a letter from Dr. Faust. That is the first time that I heard that an SS concentration camp existed in Auschwitz.

Q. When was that, please?

A. That must have been during the night from the 31st to the first of February, or from the 30th to the 31st. Presumably in the night from the 31st to the first.

Q. Of February?

A. If I recollect correctly, January.

Q. Now, Mr. Witness, did you receive a report --?

DR. SEIDL: I don't want to object, but I think there has been a mistake in the translation. The witness said in German, in the night from the 31st of January to the first of February, and I would like that to be the same in the English record. And would the Prosecutor please repeat that question to the witness?

MR. MINSKOFF: I think that answers the question now. The further question I am now putting to him: Is it not a fact that long before that date you received a report concerning the mineral oil investment of the Auschwitz plant, where they specifically mention the concentration camp in Auschwitz. And you recall you received such a report?

A. I saw this report in the documents, although I read that one notice that close to Auschwitz there was a concentration camp, or rather was to be erected near Auschwitz, and still I do not remember having known this before my trip. If I am testifying here to the best of my knowledge and belief, I can only reply to your question that my subjective feeling is that I heard about the concentration camp through the letter by Faust, and not through the letter by Rosenhaus. I can not remember either whether the report was read by me before the inspection trip or after the inspection trip. I can certainly not deny having read that report, because my name is on the distribution list, and therefore I presume I have read it. At least, this notice did not impress me so much that I received a lasting impression of the fact that a concentration camp existed in Auschwitz.

Q. Now, Mr. Witness, you spoke of the manpower problem that was going to be solved by seeing the Reichs Commissioner. What Reich Commissioner were you going to see to solve the manpower problem? Was that Himmler?

A. The Reich Commissar must have been Himmler. We ourselves did not know; at least, I did not know. I think I made a mistake in the record because I talked of Befestigung, rather than Festigung. Both mean "strengthening".

DR. SEIDL: I object to the question because obviously the witness did not testify that they went to the Reich Commissar for Strengthening of Germanism. If I understand his testimony clearly, he was trying to say that he did not realize who this agency was.

MR. MINSKOFF: Thanks for the testimony, Dr. Seidl, but that is not what the witness said. In the document which, if I understand it correctly, was written by the witness himself, the Reichs Commissar is mentioned as a source for manpower. Now the question to you, Mr. Witness, is that Reichs Commissar the Reichs Marshal SS, Himmler?

A. The Reich Commissar for the Strengthening of Germanism was Himmler.

At that time we did not know what kind of institution that was. We only knew that for the resettlement of Germans the Reich Commissar for the Strengthening of Germanism was competent.

Q. And you haven't --

A. It was therefore not as you thought that we went to the Reich Commissar in order to obtain labor, but, we were told that we would have to turn to the Reich Commissar in order to obtain Germans who were to be resettled for that district. I hope that I have expressed myself quite clearly now.

Q. Yes, there is only one question in my mind, and that is as a member of the SS since 1933, are you testifying now that there was a gap in your mind as to who the Reich Commissar was? As to whether it was Himmler or not?

A. At that time we did not know who the Reich Commissar was.

Q. Thank you. No further questions.

REDIRECT EXAMINATION

BY DR. SEIDL:

Q. Dr. Eisfeld, you testified that you joined the SS in 1933, the General SS. Do you know that the Reich Commissar for the Strengthening of Germanism, and his agency, was only created at the beginning of the war? 1939, the beginning of the war?

A. When this agency of the Reich Commissar was established, I do not know, because I had severed my relations with the SS in 1938.

MR. MINSKOFF: The Prosecution objects to the testimony of Dr. Seidl; if he wishes to take the stand, he may. The witness does not know when it was formed.

DR. SEIDL: I have no further questions of the witness.

REDIRECT EXAMINATION

BY DR. GATHER:

Q. Dr. Eisfeld, in the record of 30 January, 1941, did you talk about the Reich Commissar for the Consolidation of Germanism, and not then about the Reich Commissar for the Strengthening of Germanism?

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A. From my memory I can not answer that, because I only happened to see that document accidentally this morning, and I saw that a correction had been made in it, and now it is "Ref-stigung," but I thought it should be "Festigung", in German.

Q. Do you know whether already on the 30th of January Dr. Alt already doubted the fact whether the thing could exist? The "consolidation" of Germanism?

A. This is so long ago that I can not answer it.

THE COMMISSIONER: No further questions? The witness may be excused.

DR. SEID: Your Honor, we have a third witness, and it is the witness Adolf Taub.

THE COMMISSIONER: How long will it take for this witness?

DR. SEID: I would only take about five minutes.

THE COMMISSIONER: How long will the Prosecution take?

DR. SEID: I think we can finish this afternoon.

THE COMMISSIONER: Well, we can't go any longer than thirty minutes more, before the machine runs out. You may proceed.

ADOLF TAUB, a witness, took the stand and testified as follows:

THE COMMISSIONER: The witness will raise his right hand and repeat after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

THE COMMISSIONER: You may be seated.

DIRECT EXAMINATION

BY DR. SKIDL:

Q Mr. Taub, may I ask you to state your full name for the record?

A Taub, Adolf.

Q When were you born, witness?

A 1 September 1923.

Q Witness, on 11 August 1947 you signed an affidavit before the mayor, is that correct?

A Yes.

Q Did you voluntarily sign this affidavit?

A I signed the affidavit voluntarily.

Q This affidavit was placed in Volume 4 of Duerrfeld. It is on Page 20 of that document book. The number of the document is 892 and the affidavit was submitted as Exhibit 422. Witness, I would now like to ask you whether you wish to add anything to that affidavit. I discussed the affidavit with you a few moments ago and I noticed that on Page 1 of your affidavit — do you have it in front of you?

A Yes.

Q You wanted to make a change in the last paragraph. It says there: "Farben did not influence the camp management and the Farben people had no right to enter the camp as they wanted to." Do you wish to add anything to the expression "influence"?

A Yes, according to my personal opinion, since Farben could ask the SS to do anything, they could get any people on any material they wanted. Certainly they could have exercised some influence about the

treatment of the inmates.

Q Do you believe that the Farben management was able to give any instructions to the SS about the management of the camp itself?

A With regard to the camp management itself, I cannot say that, but they had connections with higher authorities and they could have done it through them.

Q Witness, may I remind you that it is necessary to speak slowly and, in particular, to watch the two lights in front of you? You said, on Page 2 of your affidavit, that in the Buna Camp no torture places existed. Is it not correct that in Camp No. 4 there was a torture instrument which the SS used to punish inmates?

A Yes, that is correct. There was a torture instrument called a "Book" in German and also there was a standing bunker and, apart from that, there was a political department. At this political department people were forced to give answers.

Q Was this "Book", this torture instrument, all the time in the place where the roll-calls were held or was it only brought out when somebody was punished?

A It was only brought out when somebody was to be punished, mostly during the roll-call.

Q On Page 3 of your affidavit you state: "The supply in the Buna Camp was better insofar as quality was concerned than in the other camps I knew." Did you mean Auschwitz and Birkenau by this?

A I meant only Auschwitz and Birkenau.

Q Please look at Page 5 of the affidavit. I want to ask you whether you wish to add anything in the second paragraph.

A It might not be quite correct that every day several hundred inmates died at the place where they worked, but daily quite a number of deaths occurred and people were shot when they tried to escape. I think this is owing to this work, insufficient food, but the food was as it could only have been in those days and those undernourished people had

to work terribly hard.

Q You said before, witness, that shootings occurred. Did you mean shootings in Camp 4?

A Not in the Camp, but when marching out of the camp.

Q By the SS?

A Yes, in the street.

DR. SEIDL: I have no further questions.

CROSS EXAMINATION

BY MR. LINSHOFF:

Q Now, Mr. Witness, you just mentioned on direct examination that the food at I.G. Auschwitz was better than Auschwitz-Birkenau. You stated that you meant only Auschwitz-Birkenau. Now, do you mean that there were other concentration camps which had better food than I.G. Auschwitz?

A Yes. In the Concentration Camp Sachsenhausen the entire supplies and food and sanitary conditions were much better.

Q Now, Mr. Witness, in your affidavit you state that your mother and sister were gassed at Auschwitz-Birkenau. Can you tell me the circumstances of how that occurred?

A The gassing itself?

Q Well, you say that they were gassed and I was wondering how you knew they were gassed and what the circumstances were.

A Before we were transported from Sachsenhausen to Auschwitz we already knew about gassings because they had also occurred in Sachsenhausen. Daily many Russian POWs were gassed there. Those inmates who were not popular were threatened and were sent to Auschwitz and that meant as much as certain death because we knew that gas chambers existed there.

Q Now, one second. Mr. Witness, are you speaking about I.G. Auschwitz, Buna-Auschwitz where they were threatened?

A These threats occurred in Buna-Auschwitz. Certain camp seniors and prominent people existed who perhaps did not like some inmates

personally or who perhaps knew too much about the illegal business and so they said, "We will finish you. We will send you to the transport," and they had the power to insist on that.

DR. SEIDL: I am not quite sure if the translation showed quite clearly that the witness is now talking of Camp No. 4 of which the SS was in charge. That is the Camp Monowitz.

MR. LINSKOFF: The witness said Buna, but I will clarify it if you wish, Dr. Seidl.

BY MR. LINSKOFF:

Q When you were at I.G. Farben Auschwitz in the I.G. construction site itself, did you ever hear threats there that persons would be sent to the gas chamber?

A I cannot say that because I was mostly in commandos where I worked independently and I had nothing to do with those people.

Q Well, before you went to Auschwitz-Birkenau, when you were still at I.G. Farben Auschwitz, did you then know that persons were being gassed in Auschwitz-Birkenau?

A Yes, I certainly knew that.

Q Can you state, Mr. Witness, was that general knowledge at I.G. Farben-Auschwitz that persons were being gassed at Auschwitz-Birkenau?

DR. SEIDL: I object — just a moment — I object to that question. The witness just testified that he was in a commando where he met very few others. Therefore, in that question it can only concern the fact whether this was known in Camp No. 4. He has already said that in the I.G. camp he knows nothing about it.

MR. LINSKOFF: Mr. Commissioner, these interruptions are not particularly helpful except to advise the witness as to what he ought to say. The persons who worked for I.G. Auschwitz who were concentration camp inmates, all of them lived in Monowitz which is the same place this witness lived.

BY MR. LINSKOFF:

Q Now, the question I am putting to the witness is: Among the

inmates who lived at Monowitz who of course worked for I.G. Auschwitz, was it common knowledge that persons were being gassed at Auschwitz-Birkenau?

A In the Buna Camp and the Monowitz Camp it was known among the inmates because they were mostly older inmates from Buchenwald and Sachsenhausen who had heard about these things previously and had seen them.

Q Mr. Witness, was it ever talked about on the construction site that persons who didn't work hard enough might get sent to be gassed in Auschwitz Birkenau?

A I cannot judge that. I personally did not hear that because I worked away from the commando and I was only together with one or two civilians.

Q Now, Mr. Witness, you stated that the SS was responsible in the Monowitz Camp. Now, who was responsible for the inmates during the time they were working outside of Monowitz?

A During the time we worked I.G. Farben was responsible for the inmates.

Q And during the time that you worked did you ever see inmates beaten on the construction site?

A Yes, that occurred. I was in Commando No. 4 for a time, for about four days, by chance because people were taken from another commando and a great number of freight cars had to be unloaded on a Sunday, and there many inmates were treated so badly that we had to carry them home in the evening.

Q Now, Mr. Witness, did you ever see persons collapse during the working hours?

A Yes. That occurred a few times while I was in the commando and in the commando which was called Judenfranz the Capo was always drunk and he treated the people so badly and made them work so hard in order to get some alcohol from his superior that in the evening we had to carry home people who were half dead.

Q Who was his superior, Mr. Witness?

A Of that commando? I do not know. I only know where the commando worked.

Q Was there a civilian who gave him the alcohol? Do you know that?

A Yes. The Captains all got food and drinks and so forth from civilians. They organized it.

Q Now, Mr. Witness, did it ever happen that concentration camp inmates were punished because they were reported by the I.G. Farben to the SS?

A I personally, in June or July of 1942, was removed from the place where I had worked together with two civilians and I was returned to my commando. Since this was in a chain of places where one could move about freely I left my commando during the noon interval in order to return to the civilian with whom I was on very good terms and who sometimes gave me something to eat.

After I had been with him for a few minutes in his dressing room, we heard steps on the corridor, the door was opened, and Hauptscharführer Rackers with a squadron leader and the superior of the civilians appeared. Hauptscharführer Rackers took me into a room where the heating apparatus was, and there he examined me from top to bottom, for letters or things which I might possibly have been given, and he only found a sandwich on me. After that he beat me so heavily that my glasses broke, and it was very difficult for me to get a new pair. Apart from that, he took me along with him immediately to his barracks where he stayed during the day and then he had my Capo called and talked to him as to why I had left the commando without his ordering it. Since he had done some transactions with this Capo as well, he did not do anything to the Capo, and the Capo advised me that I should ask the Hauptscharführer that he should give me 25 lashes and should not report me instead. I did this. He then gave a stick to the Capo and said he was to give me 25 strokes. Since the first 10 strokes were rather weak, he gave the stick to another fellow sufferer away from the Capo so that he would continue with the beating. Since the other man did not beat me hard enough either, he had to stop after five beatings and Hauptscharführer Rackers personally gave me 25 beatings with the stick.

Q. Now, Mr. Witness, you mentioned in your affidavit that the I.G. management was against beating the inmates. Now how can you explain that in view of the fact that it was they who reported you?

A. Beating of inmates was officially prohibited according to a ruling in the camp so that the inmates could work better, so that they would do work for the German economy, and since in the armament industry they were short of skilled workers.

Q. Now, Mr. Witness, you received buns soup while you worked at I.G. Auschwitz?

Q. Yes, every lunch we received buns soup except during the first three months while I was there —

Q. Was that — pardon me, go ahead.

A. Since the buna kitchen was only being constructed and had not yet been completed.

Q. Was that a good nourishing soup or was that a very, very watery soup?

A. The soup varied, but it was made only with water and vegetables. Some days, for example, we got beets. They put in a lot of those and not so much water. On other days, we got different kinds of beets and the soup consisted mostly of water.

Q. Now, Mr. Witness, you worked in Cable Commando IV, isn't that right?

A. Yes. This was not a cable commando. Commando IV was a concrete and iron unloading commando.

Q. Was that the commando that was called the death commando?

A. Yes.

Q. Isn't it a fact, Mr. Witness, that the inmates who worked in that commando would have among them dead ones carried in every day?

A. I can certainly say that dead people or half dead people were brought in every day, and that these people who tried to escape were shot at the gate where they marched out of the camp.

Q. Now could these persons who were being carried out, could they be seen as they marched back toward Monowitz?

A. These ill treatments could not be seen, but the shooting was carried out on the open street.

Q. Now, Mr. Witness, while you were at I.G. Auschwitz, didn't you also do some work as a translator?

A. As a translator? As a transport worker, do you mean?

Q. No, as a translator.

A. No, never.

Q. Mr. Witness, did you ever speak — Go ahead.

A. I forgot it. At the Commando No. IX, the electric commando,

since I speak Italian, and was arrested in Italy for a brief period, I worked together with Italians, since the German foremen were not able to talk to them.

Q. Now, Mr. Witness, isn't it true that when you had conversations with I.G. Farben employees that you often talked about the gassings of human beings at Auschwitz-Birkenau?

A. All inmates who had any connection with civilians described all the conditions in the camps.

Q. The question I am asking you is; does that include the gassing of inmates at Auschwitz-Birkenau?

A. Yes, 100 per cent.

Q. Thank you. No further questions.

REDIRECT EXAMINATION

BY MR. SEITZ:

Q. Witness, I wish to ask you, when did you come to Monowitz to the camp there where the inmates were housed who worked in the Farben plant?

A. In October or the beginning of November 1942.

Q. How long were you there?

A. Until June or July 1943, until I was put into a punitive detachment.

Q. And afterwards you returned to Monowitz?

A. No, after I had been in a punitive company for two months, I went to Warsaw with a transport.

Q. You said before that the food in Sachsenhausen was better. Is it correct that you were in Sachsenhausen before and that at that time conditions were better generally?

A. In Sachsenhausen at the beginning of '39 until '40, the time was very bad, and from '40 to '42 conditions became better every day because they already needed the workers.

Q. You also answered to the Prosecutor's question that the supervision over the inmates in the Farbon plant was carried out by Farbon people themselves. Isn't it correct that the immediate supervision was carried out by Capos, that is other inmates?

A. The I.G. foreman told the Capo to see to it that a certain amount of work was carried out, and it occurred when a Capo did not manage to do the amount of work with his people he was supposed to do, then he was told by the commando leader about it, I presume, because the commando leader was told about this. In that way the Capo was forced to make the people work hard so that they themselves would not have to suffer.

Q. You testified before that inmates were always trying to escape, while marching from the camp to the plant or the open road. Can you tell me the time when this occurred?

A. It was early, about seven o'clock, about one hour before we started to work.

Q. And how often did you see that?

A. Almost every day; sometimes I saw several people.

Q. You also testified that the inmates talked to civilians. Do you know that it was strictly prohibited that inmates should talk to civilians or the other way around?

A. Yes, we did know that it was strictly prohibited to talk to civilians.

Q. No further questions.

MR. MINSKOFF: No further question.

THE PRESIDENT: The Commission will be in recess until ten o'clock tomorrow.

(The Commission adjourned until 5 May 1948 at 1000 hours.)

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